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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS,

v.

KAREN READ.

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* Docket No. 2282CR00117
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TESTIMONY OF JENNIFER MCCABE
BEFORE THE HONORABLE BEVERLY CANNONE
WEDNESDAY, APRIL 30, 2025

APPEARANCES:

For the Commonwealth:

BY: HANK BRENNAN, A.D.A.
ADAM LALLY, A.D.A.
LAURA MCLAUGHLIN, A.D.A.

For the defendant:

BY: DAVID YANNETTI, ESQ.
ALAN JACKSON, ESQ.
ELIZABETH LITTLE, ESQ.
ROBERT ALESSI, ESQ.

Dedham, Massachusetts

Also present:

Cindy Gilman
Sophie Johnson

Christine D. Blankenship, CVR
Court Reporter/Transcriber

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None

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1 (Court in session at 9:07 a.m.)

2 (Defendant is present with counsel.)

3 THE CLERK: Commonwealth versus Read. Counsel had
4 asked to see you before the jury came over, Your Honor.

5 THE COURT: All right. Good morning.

6 MR. BRENNAN: Good morning, Your Honor.

7 THE COURT: So what is it you wanted to see me about,
8 Mr. Brennan? I was handed clips 12A and 16.

9 MR. BRENNAN: I think it's 12 and 12A that you should
10 have.

11 THE COURT: Oh, okay.

12 MR. BRENNAN: You have 12 from yesterday, 12A is in
13 addition. This is regarding the evidentiary the issue of
14 Jennifer McCabe's phone call to John O'Keefe when she was
15 giving directions, and she identified the location by
16 pointing out (C)'s mom's house.

17 THE COURT: Okay.

18 MR. BRENNAN: I believe that those two clips will have
19 statements of the defendant, which will establish the
20 predicate, for allowing in that statement by Ms. McCabe,
21 and then I expect to play those clips after Ms. McCabe's
22 testimony concludes.

23 THE COURT: All right. What do you say, Mr. Jackson?

24 MR. JACKSON: That does not cure the hearsay aspect. I
25 understand Mr. Brennan's argument about the relevance to

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1 his case of what Ms. Read said at her statements. That's
2 obviously -- this was an admission of a party opponent of
3 the defendant's statement. That does not do anything to
4 cure the hearsay that was being asked or requested by this
5 witness to address the statements that were sought
6 yesterday. Hearsay is hearsay. If you want to get the
7 clips in, he can do so. I have no objection to that as
8 long as they were in context, and if they pass the
9 relevancy. But it does appear to be a hearsay issue.

10 THE COURT: So Ms. McCabe testified, my notes for
11 whatever it's worth, said at the end of the day one of the
12 things she testified to was the defendant on the morning
13 when they were driving over to Fairview saying could John
14 be cheating on her? Could he be with (c)'s mom?

15 MR. BRENNAN: Yes.

16 THE COURT: So that's in evidence. You want more than
17 that? Would do you expect the testimony to be?

18 MR. BRENNAN: I expect, if allowed to testify, Mrs.
19 McCabe would testify that she had a phone call with John
20 O'Keefe before John O'Keefe and the defendant arrived at
21 Fairview, and John O'Keefe and the defendant were lost.
22 And in giving directions, she offered to John O'Keefe,
23 which was heard by the defendant, "The house is near
24 (c)'s mom's house." That is evidence of motive.

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1 THE COURT: All right. Just that? That she said --
2 yeah, I'm going to allow that.

3 MR. JACKSON: I don't have a problem with that.
4 Yesterday -- I'm sorry. I misunderstood. I thought Mr.
5 Brennan was trying to get in the nature of the relationship
6 between (c) and John, which would be hearsay. I have no
7 problem with this offer of proof.

8 THE COURT: Yeah, it's a little bit different than
9 yesterday.

10 MR. BRENNAN: Okay.

11 THE COURT: And I understand the loop you'll make
12 eventually, but this is all you intend to get through Ms.
13 McCabe now, right?

14 MR. BRENNAN: Yes.

15 THE COURT: Okay.

16 MR. BRENNAN: Because I don't think from what I heard
17 she knows of that relationship at that time.

18 THE COURT: Okay.

19 MR. BRENNAN: So I don't think I should ask that.

20 THE COURT: Okay.

21 MR. BRENNAN: Just that she was giving directions
22 and --

23 THE COURT: That's fine. That's fine and then those
24 clips can come in.

25 MR. BRENNAN: Great. Fantastic. Thank you.

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1 THE COURT: All right. So we'll bring the jurors over.

2 MR. JACKSON: The only thing I would ask is the clips
3 not be played with Ms. McCabe on the stand.

4 MR. BRENNAN: Agreed.

5 THE COURT: All right. Let's bring the jurors over. Do
6 you need me to take a recess? Okay. Why don't --

7 MS. MCLAUGHLIN: Your Honor, can we be seen at sidebar?

8 THE COURT: Yes, yes. Sidebar, please.

9 THE CLERK: Sidebar, please.

10 THE COURT: Mr. Brennan and Mr. Jackson.

11 MR. JACKSON: Oh, sure.

12 (Sidebar commences:

13 MS. MCLAUGHLIN: Your Honor, as advised by the Court
14 yesterday evening, the Commonwealth provided a copy of a
15 two-page unauthored narration of an April 2023, incident.
16 I --

17 THE COURT: Can I have that, Jim?

18 MS. MCLAUGHLIN: -- along with two victim witness
19 advocates spoke briefly last night with Mrs. McCabe to
20 confirm that she had an opportunity speak with counsel, and
21 were advised of other potential rights should defense
22 attempt to impeach her with what the Commonwealth would
23 argue is irrelevant and inadmissible unauthenticated
24 hearsay. There was no conversations about Mrs. McCabe's

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1 testimony, no prep, and the facts of the case were
2 discussed.

3 THE COURT: Okay. All right. Thank you. I want you to
4 come up to sidebar before you intend to impeach with this,
5 Mr. Jackson.

6 MR. JACKSON: Understood.

7 THE COURT: Scheduling. Are we on track?

8 MR. BRENNAN: Pardon, Your Honor?

9 THE COURT: Are we on track scheduling-wise?

10 MR. BRENNAN: We are.

11 THE COURT: All right. Thank you.

12 end of sidebar.)

13 (Jury in at 9:14 a.m.)

14 THE COURT: Good morning, again, Counsel. Good
15 morning, Ms. Read. Good morning, jurors.

16 We appreciate you being prompt and ready to go this
17 morning. There was something I needed to discuss with the
18 lawyers to help streamline the evidence that will be
19 presented to you today. So I appreciate your patience. I
20 do have to ask you those questions. Were you all able to
21 follow my instructions and refrain from discussing this
22 case with anyone since you left?

23 Everyone said yes or nodded affirmatively.

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1 Were you also able to follow my instructions and
2 refrain from doing any independent research or
3 investigation into this case?

4 Everyone said yes or nodded affirmatively.

5 Did anyone happen to see, hear, or read anything about
6 this case since we left yesterday?

7 Everyone said no or shook their heads.

8 Thank you very much. Can we have Ms. McCabe back,
9 please?

10 THE CLERK: Ms. McCabe, I'll remind you you're still
11 under oath. Thank you.

12 MR. BRENNAN: May I proceed?

13 THE COURT: Good morning, Ms. McCabe.

14 THE WITNESS: Good morning.

15 **DIRECT EXAMINATION**

16 **BY MR. BRENNAN, continued:**

17 Q Good morning.

18 A Good morning.

19 Q Before you take us back to Fairview Road, I want to ask
20 you a couple of questions about John's house at Meadows.

21 Are you familiar with his house?

22 A Yes.

23 Q Have you seen the front of his house before?

24 A Yes, I have.

25 Q Are you familiar with his driveway?

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1 A Yes.

2 Q Are you familiar with whether there's any surveillance
3 system at Mr. O'Keefe's house?

4 A Yes.

5 MR. BRENNAN: May I approach, Your Honor?

6 THE COURT: Yes.

7 Q Ms. McCabe, I'm showing you what has been previously
8 marked as Exhibit 6. Do you recognize that photo?

9 A Yes, I do.

10 Q And what is it?

11 A That's John O'Keefe's house.

12 MR. BRENNAN: Could we provide Exhibit 6 for the jury,
13 please.

14 (Exhibit 6 displayed.)

15 Q On that screen, is that Mr. O'Keefe's home?

16 A Yes.

17 Q I'm going to show you what's been marked as Exhibit 8.
18 Do you recognize that?

19 A Yes.

20 Q And what is it?

21 A That is the side of Mr. O'Keefe's house, the two garage
22 doors.

23 Q Is there any indication of surveillance?

24 A It looks like it's a camera right here.

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1 Q Is that what John O'Keefe's side of his house looks
2 like?

3 A Yes.

4 Q I want to show you Exhibit 10.

5 (Exhibit 10 displayed.)

6 Q Do you recognize what's in that photo?

7 A Yes.

8 Q What is it?

9 A It is the driveway of John O'Keefe's.

10 Q Do you see a car to the left?

11 A Yes.

12 Q Do you know whose car that is?

13 A Yes, that's Ms. Read's.

14 Q Is that what you left it the night before of those
15 early morning hours when you drove to Mr. O'Keefe's house?

16 A Yes.

17 Q I want to show you what's been marked as Exhibit 11.

18 Do you recognize what's in that photo?

19 A Yes, Ms. Read's vehicle.

20 Q Is that the vehicle that Ms. Read showed you with the
21 broken and missing taillight that morning?

22 A Yes, it is.

23 Q You mentioned earlier in the night you spoke to John
24 O'Keefe when you called him or he called you about
25 directions to Fairview Road.

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1 A Yes.

2 Q And you also shared that you had a phone conversation
3 offering directions?

4 A Yes, I did.

5 Q Did you tell John that the house at Fairview was near
6 (C) 's mom's house?

7 MR. JACKSON: Objection.

8 THE COURT: Sustained as to form, Mr. Brennan.

9 Q What did you tell John as far as directions to
10 Fairview; how did you mark the trip for him?

11 A I told him to go past (C) 's house, (C) 's street,
12 and then fall it down to the end.

13 Q Now, I want you to take us back to where we were
14 yesterday when we left off.

15 You had brought us back to Fairview Road and you had
16 found John?

17 A Yes.

18 Q You shared with us that you were trying chest
19 compressions. Before the chest compressions, did you make
20 a phone call?

21 A I called 911.

22 MR. BRENNAN: Your Honor, I'd like to move to introduce
23 a copy of that 911 call.

24 THE COURT: Okay. Do you have something physically
25 to --

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1 MR. BRENNAN: Ms. McLaughlin does.

2 THE COURT: Thank you.

3 (Whereupon Exhibit No. 45, Audio of 911 Call, was marked as
4 an exhibit.)

5 MR. BRENNAN: With the Court's permission, I'd like to
6 play Exhibit 45.

7 THE COURT: Yes.

8 (Exhibit 45 played.)

9 Q Ms. McCabe, describe your mental state when you were
10 speaking to 911.

11 A I guess the best way to describe was I was in shock.
12 My heart was racing. I was trying to be as helpful as I
13 could and get the information to -- the most important
14 information out as quick as I could to the 911 operators,
15 but also the scene there with Karen and Kerry was a big
16 chaotic between the two of them. So I was just trying my
17 best to be as calm as I could, to get the help there as
18 fast as I could, to answer their questions the best that I
19 could.

20 Q Before you told the 911 operator John O'Keefe's name
21 and his age, you said, "There's a man in the snow." Do you
22 know why you chose those words?

23 A I think I just wanted to get out the most specific
24 details. So a man in the snow versus, you know, John
25 O'Keefe and into a story. I think I was just get the

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1 details to them as fast as possible to get help to him as
2 fast as possible.

3 Q When you told the 911 operator that your friend John
4 O'Keefe was the person lying in the snow, how did you know
5 his age?

6 A We used to joke because he was a couple of months older
7 than me. So I would, you know, oh, you're older than me.
8 Just a little thing between friends.

9 Q When you called the 911 operator, had Kerry and the
10 defendant already been around or near John?

11 A Yes.

12 Q Do you know if they had begun trying CPR before you
13 called 911?

14 A I'm not sure if they had because Karen had straddled
15 him and lifted her shirt, was warming him up, and then
16 Kerry was yelling at her to get off. Then I think when
17 Kerry got the blankets and was trying to put them under
18 John, I think as she started to move him and wipe him, then
19 blood started to come out. Then Karen was afraid he was
20 going to choke on his blood and wanted to move him on his
21 side, and then Kerry was yelling at her, "We can't move
22 him." And this is kind of all going on while I was talking
23 to 911.

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1 Q You described what you saw when you said at some point
2 he was bleeding from the face area. Was that before or
3 after he was moved?

4 A After.

5 Q Before he was moved, did you see any active bleeding?

6 A No.

7 Q After you called 911, what do you do next?

8 A I think I called my sister, and she didn't answer and
9 then -- because I think I called her as I was walking over
10 to John, and she didn't answer and then I immediately got
11 down on the ground and Kerry Roberts asked me to take over.

12 Q How long did you try to help John for?

13 A I'm not sure. I'm not sure.

14 Q How long were you and the defendant and Ms. Roberts
15 there before someone else arrived?

16 A Police officer was the first to arrive. In the moment,
17 it seemed like a long time, but I think it was fairly quick
18 that they arrived.

19 Q At any point during the time when you tried to help Mr.
20 O'Keefe, and the first police officer arrived, at any point
21 did you see any signs of life from Mr. O'Keefe?

22 A No.

23 Q When the police officers first arrived, do you remember
24 what happened next?

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1 A I remember there was -- it was very chaotic, but there
2 was talk about a spotlight. I remember -- I think I got up
3 and ran to kind of wave the -- to grab -- to get the police
4 officer's attention so he could see where we were.

5 Q And then what happened?

6 A The police officer, not sure specific, I do remember
7 him asking about John. I think he said, is he a drug user.
8 He was just asking some basic questions.

9 Q And what's the environment? What's going on around you?

10 A Karen is just running around crazy, like, just yelling,
11 screaming, kind of a ping pong.

12 Q What were you trying to do?

13 A I was just trying to talk to the officer. I guess I
14 just went into this, like, type of mode I have to just talk
15 to him, get the information out, figure out, like, how we
16 can best help John and, like, what happened to him and try
17 to save him, ultimately.

18 Q And what happens next?

19 A More officers begin to come, fire, and EMT. So the
20 scene becomes active with a lot of different presence. You
21 know, John -- I think they lift John onto a board at one
22 point. The officers are asking us questions. Karen is
23 kind of coming over, talking to the questions, and then
24 kind of just running away, and then she runs back over.
25 She's doing a lot of screaming. A lot of repetitive, "Is

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1 he dead? Is he dead? Is he dead?" You know, "Could I have
2 hit him? Did I hit him?" Kerry I think -- Kerry is off
3 kind of making phone calls I believe to John's family.

4 Q Do you know what time the first responders lifted John
5 from the ground and put him on that bed?

6 A I don't know what time, but it was ...

7 Q That's the only question.

8 A Okay.

9 Q You heard your 911 call, do you know the time of that
10 911 call?

11 A Not off the top of my head, no.

12 Q At some point, did you talk to a number of different
13 people at the scene?

14 A Yes.

15 Q And who were you talking to?

16 A The first officer was Officer Saraf. I know I spoke
17 with him. I spoke with an Officer Lank, an Officer Goode.
18 There were other officers. I don't remember their names.
19 There were EMTs. I don't remember their names, either.

20 Q You've in this area for a long time?

21 A Yes.

22 Q Active in the community?

23 A Yes.

24 Q Did you know Sergeant Goode from before that night?

25 A I knew of him. I didn't know him personally.

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1 Q Did you know Detective Lank?

2 A Yes, I knew him.

3 Q How did you know him?

4 A We were friendly.

5 Q Children ever associate with each other?

6 A Not until recently.

7 Q After you had a chance to speak to some of the
8 officers, did you move around at all yourself?

9 A Yes. I, you know, kind the officers would talk to us
10 here and then a little bit over to the side. I tried to
11 comfort Ms. Read. We -- at one point, Ms. Read was very
12 upset, and one of the officers thought it would be best if
13 maybe she went and just sat in one of the cruisers for a
14 little bit because she was just doing a lot of screaming
15 and yelling. I think they were just trying to, you know,
16 get, you know, work on John and make the scene a little
17 less chaotic.

18 So I went into the back of the car with her, and Kerry
19 Roberts came over. Then we all sat in the back of the --
20 well, I -- Kerry -- Karen and I kind of scrunched and
21 sitting in the back and Kerry was at the door of the
22 cruiser.

23 Q Why did you get in the car with the defendant?

24 A She was crying. She asked me to get in. We held
25 hands. We prayed. She did have a blood on her hands, and

1 she said, "Could I have gotten my period? Who's going to
2 take care of the kids?" She just kind of was all over the
3 place, and then at one point, we saw them moving John
4 towards the ambulance. And at that point, Ms. Read started
5 yelling to Ms. Roberts, "Go check on him. Are they working
6 on him? Is he dead? Is he dead?" And at that point,
7 myself and Ms. Read got out of the car, and she started
8 yelling and pulling on me to Google hypothermia or Google
9 how long it takes for somebody, you know, to die in the
10 cold.

11 Q When the defendant first asked you to Google an inquiry
12 about hypothermia, were you still inside the police cruiser
13 or were you outside?

14 A Outside.

15 Q What was the weather? I know it's an obvious question,
16 but how cold was it?

17 A It was very cold. It was windy. The snow was blowing.
18 As I stated, I have multiple sclerosis so when I'm out in
19 either too hot or cold temperatures, I lose the feeling and
20 sensation in my fingers, which obviously made the Googling
21 very hard for me to do because of my, you know, motor
22 skills.

23 Q So when you were outside of the car with the defendant
24 and she had asked you to do a search regarding hypothermia,
25 did you try to do that?

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1 A Yes, I did.

2 Q Do you know the exact time from your memory, not from
3 reading or learning, but from your memory, do you remember
4 the exact time you did that?

5 A No.

6 Q Was it after the police came that morning?

7 A Yes.

8 Q Had you ever, ever attempted to search about
9 hypothermia any time before that moment that morning?

10 A No.

11 Q Or that day?

12 A No.

13 Q That week?

14 A No.

15 Q Was this the first that morning after the defendant
16 asked you to search when you searched that phrase?

17 A Yes, it was.

18 Q And did you complete your search and get a result?

19 A So I think -- I don't know what came up because I think
20 as I entered it I think I misspelled things. And so then I
21 think I tried a second search, and again, I don't think I
22 even paid attention to what came up because we were already
23 onto the next thing. Karen was already moving and
24 screaming about, you know, the next thing to Kerry, "Are
25 they working on him?" or "Is he dead?"

1 Q Did the defendant move somewhere from the point when
2 she first asked you to try to Google about hypothermia to
3 something else?

4 A She was next to me, and then I think she took off.
5 Like, she kept kind of running off.

6 Q And what did you do?

7 A I believe as they were putting -- I think I stood
8 there. I believe as they were putting John into the
9 ambulance, I went back kind of where -- to the original
10 spot where we had been talking to the police, and at that
11 point a new officer might have come because I remember
12 talking to multiple officers there.

13 Q At some point, did you back towards the area Ms.
14 Roberts' car?

15 A Yes, that's where I'm referring to. Sorry.

16 Q At some point -- at some point, were you with the
17 defendant when she spoke to an officer and a first
18 responder?

19 A Yes.

20 Q Do you remember if the first responder was a man or a
21 woman? A I remember there was a woman right next to us,
22 yes.

23 Q Do you remember if that was before or after the
24 defendant asked you to search about hypothermia?

25 A I'd be guessing if I -- I don't.

1 Q Don't guess.

2 When the defendant was speaking to the first responder,
3 the woman, were you there?

4 A Yes.

5 Q Did you hear or do you remember the defendant say
6 anything to the first responders?

7 A Yes.

8 Q What did she say?

9 A She told the first responder, "I hit him. I hit him. I
10 hit him."

11 Q When she told the first responder, "I hit him," how did
12 you react?

13 A I was startled, kind of what are you saying, what are
14 you talking about.

15 Q Did you say anything to the defendant?

16 A I think after the second or third time she was saying
17 it, I was like, Karen, Karen, what are you saying.

18 Q Why were you trying to interrupt her?

19 A Because I thought she was just talking crazy, and I'm
20 saying why was she saying she hit him.

21 Q Were you trying to look out for her?

22 A Yes.

23 MR. JACKSON: Objection.

24 THE COURT: Sustained.

25 MR. JACKSON: Move to strike, Your Honor.

1 THE COURT: I'll strike it. You can ask it
2 differently.

3 Q What was your motivation trying to interrupt the
4 defendant from making the statements to the first
5 responder?

6 A Karen was hysterical, irrational.

7 MR. JACKSON: Objection.

8 MR. BRENNAN: I'll move on.

9 THE COURT: Okay. I'm going to see counsel at sidebar
10 for just a minute, please.

11 (Sidebar commences:

12 THE COURT: Mr. Alessi, I watched you yesterday, and I
13 just started watching you again. You turn toward the jury
14 and make faces in utter disbelief, you roll your eyes. It
15 was reported to me yesterday by a member of the staff. You
16 have to stop it.

17 MR. ALESSI: I will not do that, Your Honor. I was not
18 aware of that any, and I will not do that. I'll make a
19 special effort not to have that happen.

20 THE COURT: And turn your chair to the front, not to
21 the jury.

22 MR. JACKSON: I will do that.

23 end of sidebar.)

24 MR. BRENNAN: May I?

25 THE COURT: Yes.

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1 Q After you made the search to the defendant's request
2 for an inquiry regarding hypothermia, did you have a chance
3 to speak to the officers further?

4 A Yes.

5 Q Did they ask you to do anything or go anywhere?

6 A Yes. Officer Lank asked me to go into my sister's house
7 and to wake them up.

8 Q And your sister's name again?

9 A My sister Nicole.

10 Q And that is the house you were in the night before?

11 A Yes.

12 Q And after you spoke to the officer, they requested you
13 go into speak to your sister, did you?

14 A Yes.

15 Q Was there any directive on what you should speak to
16 your sister about?

17 A No.

18 Q After the officers asked you to go into the house, did
19 you?

20 A Yes, I did.

21 Q Do you remember what door you went through?

22 A Yes. I went through the front door.

23 Q Was the door locked?

24 A Yes.

25 Q How did you get in?

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1 A Oh, I'm sorry. I thought you said was it unlocked.

2 Q No, I asked if it was locked.

3 A Oh, sorry. It was unlocked.

4 Q As you're approaching the house, were there any lights
5 on?

6 A No.

7 Q Was it dark?

8 A Yes.

9 Q Any signs of any movement inside the house before you
10 went in?

11 A No.

12 Q Take us through walking through the front door, what
13 happens?

14 A So I went in the front door, I opened the door. I
15 walked up the stairs into their hallway, and then I think I
16 knocked on their door.

17 Q The bedroom door?

18 A Their bedroom door. And then I kind of -- I opened the
19 door, I went in, and I walked over to the bed, and I was
20 like, Brian, Nicole, Brian, Nicole, because I was in a
21 position where I felt the world was going on around me and
22 so much was happening, but I also was aware that I was just
23 about to wake up two people that are sound asleep and
24 they're going to see me standing over their bed and be
25 startled wondering what am I doing here.

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1 Q So what happens?

2 A So I kept -- it took a minute or two, and then Brian
3 woke up, and he immediately was like startled. He said,
4 "Jennifer, what's going on? What are you doing?" And then I
5 believe I tried, the best I could, to say what was going
6 on. I think I said, "We found John."

7 Q You don't need to describe.

8 A Okay.

9 Q But again, I want to know their reaction and
10 interaction with your sister and Brian Albert?

11 A They were startled and confused.

12 Q Did you have a conversation with them?

13 A Yes.

14 Q How long was that conversation?

15 A Brief. They got up, got dressed. I spoke to them.

16 Q And where did you go and where did they go?

17 A Then we went -- all three of us went down the stairs.

18 Q The upstairs to the downstairs?

19 A Upstairs to downstairs.

20 Q And upstairs is the second level, is downstairs the
21 first level?

22 A Yes.

23 Q When you come down the stairs, can you see the front
24 door?

25 A Yes.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-26

1 Q Is there anybody in the house at that point?

2 A I saw Officer Lank.

3 Q In the house?

4 A Yes.

5 Q Do you know if he had been invited in?

6 A I have no idea.

7 Q When you came downstairs and saw Officer Lank, where
8 was your sister and Brian Albert?

9 A They were walking with me downstairs.

10 Q And did you see whether or not the officer spoke with
11 your sister and your brother -- brother-in-law?

12 A He did, yes.

13 Q Were you there during that conversation?

14 A No.

15 Q How long was that conversation, do you know?

16 A I'm not sure.

17 Q Where did you go when the officer was speaking to your
18 sister and your brother-in-law inside their home?

19 A I was standing at the front doorway, and then my
20 husband Matt had just arrived.

21 Q What happened next?

22 A I started talking to Matt and almost immediately,
23 Officer Lank came, got Matt, and asked if he could talk to
24 him outside.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-27

1 Q At this point, I want to go back and show you some
2 video. Have you seen video in this case before?

3 A Yes.

4 MR. BRENNAN: I'd like to ask the Court's permission to
5 display Exhibit 4, and I'd like to walk you through some of
6 the video.

7 THE COURT: Okay.

8 MR. BRENNAN: Ms. Gilman, if you kindly play Exhibit 4.
9 I'd like to start at 6:09:57.

10 Ms. Gilman, if you could take us to the arrival at
11 Fairview. (Video played.)

12 MR. BRENNAN: Will you stop there, please.

13 Q Ms. McCabe, do you recognize this scene?

14 A Yes.

15 Q Is that that morning?

16 A Yes.

17 Q The car directly in front of this dash cam, do you know
18 whose vehicle that is?

19 A Kerry Roberts.

20 Q On the left, do you see somebody with a blue parka or
21 jacket; do you know who that is?

22 A I believe that's me.

23 MR. BRENNAN: Can you take continue to play, please.
24 (Video played.)

25 MR. BRENNAN: Can you stop, please.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-28

1 Q Does that fairly depict your first interaction with law
2 enforcement?

3 A Yes.

4 Q Do you see a flagpole in that video?

5 A Yes.

6 Q And is that the area where you found John?

7 A Yes.

8 MR. BRENNAN: I'd like to move forward in the video.

9 If we can move forward to 1645, please.

10 (Video played.)

11 MR. BRENNAN: Stop there.

12 Q Can you identify people on that video from right to
13 left, if you can?

14 A I don't know the officer. That's myself. I believe
15 behind me, that's Ms. Read.

16 Q And this is about -- let me the time correct, 6:14:47.
17 And do you know where John is at this point?

18 A Are they lifting him to the left?

19 MR. BRENNAN: Continue, please, Ms. Gilman.

20 (Video played.)

21 MR. BRENNAN: Could you stop there?

22 A The person all the way to the left near the flagpole,
23 do you know who that is?

24 A I believe Kerry Roberts.

25 Q And is that the area where John was found?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-29

1 A Yes.

2 Q And that's at 6:15 a.m.? If you don't know, that's
3 okay.

4 Do you know what Ms. Roberts was doing at 6:15 a.m.?

5 A My guess is that --

6 Q I don't wait you to guess.

7 A Oh, I don't know.

8 Q Now, you're over to the right. If that you?

9 A Yes.

10 MR. BRENNAN: Continue, please.

11 (Video played.)

12 Q Is that Kerry on the left?

13 A Yes.

14 MR. BRENNAN: Stop please.

15 Q On the right, do you see yourself?

16 A Yes.

17 Q And which person are you?

18 A I'm the one next to the one with the fluorescent
19 yellow.

20 Q Is your back to us?

21 A Yes.

22 Q To the right in yellow, do you know who that is?

23 A I don't.

24 MR. BRENNAN: Continue, please.

25 (Video played.)

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-30

1 MR. BRENNAN: Continue.

2 (Video played.)

3 MR. BRENNAN: Stop, please.

4 Q Do you see the defendant move from right to the left?

5 A Yes.

6 Q Do you see the yellow jacket?

7 A Yes.

8 Q Do you know whether or that's the woman first
9 responder?

10 A I believe so, yes.

11 Q Do you know why the officer moved the defendant over to
12 -- from right to left?

13 A I don't.

14 MR. BRENNAN: Continue, please.

15 (Video played.)

16 MR. BRENNAN: Stop.

17 Q At that part, is there a conversation between the
18 defendant and the first responder?

19 A Yes.

20 Q Are you listening?

21 A Yes.

22 MR. BRENNAN: Continue.

23 (Video played.)

24 MR. BRENNAN: Stop.

25 Q Do you see the officer that was with you in that group?

Testimony of Jen McCabe

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Cw. v. Read

1-31

1 A Yes.

2 Q Do you see him now turned away from the group speaking
3 to somebody else?

4 A I do.

5 MR. BRENNAN: Continue, please.

6 (Video played.)

7 MR. BRENNAN: Thank you. If you could move ahead to
8 6:19, please?

9 (Video played.)

10 Q Is that you, Ms. McCabe, and Ms. Roberts?

11 A Yes.

12 Q Is that Ms. Roberts?

13 A Yes.

14 MR. BRENNAN: Stop for a moment.

15 Q Do you know at which point you went to the officer's
16 car and sat in the back with Ms. Read?

17 A I believe it's right after this.

18 MR. BRENNAN: Continue, please.

19 (Video played.)

20 MR. BRENNAN: Stop.

21 Q Is that Ms. Roberts?

22 A Yes.

23 MR. BRENNAN: Stop, please.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-32

1 Q Was it before or after that moment that you sat with
2 the defendant, and Ms. Roberts stood outside the car, and
3 you prayed?

4 A I'm not exactly sure from that video.

5 Q That's fine.

6 MR. BRENNAN: If we could move forward to 6:23:40,
7 please.

8 (Video played.)

9 Q At this time, are you still with the defendant behind
10 this car in some spot?

11 A Yes, I am.

12 Q Is it during this time 6:23 and 6:24 you tried to make
13 those searches at the defendant's request?

14 A Yes.

15 MR. BRENNAN: Ms. Gilman, if you could move forward to
16 6:26:14.

17 (Video played.)

18 MR. BRENNAN: Pause, please.

19 Q Mrs. McCabe, do you see anybody returning to Ms.
20 Roberts' car in that hearing?

21 A Yes.

22 Q And who do you see?

23 A I saw myself standing, and I'm standing outside of the
24 car speaking to Officer Lank. I saw Kerry go up and near

Testimony of Jen McCabe

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Cw. v. Read

1-33

1 her car. I'm not sure if she went into it, and I saw
2 someone walk Ms. Read into the car.

3 Q Is it around this time you have a conversation with Mr.
4 Lank?

5 A Yes.

6 Q And what does he tell you again around this time?

7 A He at this point asking me questions about what had
8 happened, and then soon after he asks me to go into my
9 sister's house.

10 MR. BRENNAN: Ms. Gilman, if you could fast-forward to
11 6:34:15, please.

12 (Video played.)

13 MR. BRENNAN: Stop, please.

14 Q You described that the house had no lights on. Is that
15 a fair depiction --

16 A Yes.

17 Q -- of the view?

18 A Yes.

19 Q Do you see a figure walking up the driveway?

20 A I -- not on this pause clip, but I did see it, yes.

21 Q Let's play and see you can identify.

22 (Video played.)

23 A Yes, I can see myself walking up.

24 Q Where are you now?

Testimony of Jen McCabe

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Cw. v. Read

1-34

1 A I'm walking up the path to go up the stairs, the stairs
2 into the house.

3 Q And this is at the request of Officer Lank?

4 A Yes.

5 Q And you described for us you went in and woke up your
6 sister and brother-in-law?

7 A Yes.

8 MR. BRENNAN: Could we move forward to 6:39, please.

9 (Video played.)

10 MR. BRENNAN: Stop.

11 Q Can you see something happen at the house at that
12 point?

13 A Yes.

14 Q And what happens?

15 A A light went on.

16 Q I'll note it's 6:39:08.

17 MR. BRENNAN: Thank you, Ms. Gilman.

18 Q After first responders took John and you had gone in
19 your sister's house, what did you do next?

20 A Next, I -- after Officer Lank spoke to my husband,
21 Kerry Roberts -- her and I had a conversation. She was
22 going to go pick up John's parents in Braintree. At first
23 I had told her I would go with her, but then Officer Lank
24 said that I needed -- one of us had to stay at Fairview to

1 speak to the -- I believe it was the state troopers that
2 would be coming.

3 Q Did you stay at Fairview?

4 A I did, yes.

5 Q What was your mental state at that point?

6 A Again, I was in shock. The best way I can describe it
7 is the feeling of I'm present, and everything's going on
8 around me, and I'm just trying to process and make sense of
9 everything.

10 Q Did you speak to your sister about what happened?

11 A Yes.

12 Q Did you speak to your brother-in-law about what
13 happened?

14 A Yes.

15 Q And were they giving you any comfort or support?

16 A Yes, they were being very comforting and supportive.

17 Q As you were waiting at Fairview, did anybody else come
18 to the house?

19 A Well, my husband Matt arrived. A little while later,
20 Julie Albert had arrived. She was dropping something off
21 and then Brian, Sr. called her in.

22 Q Is Julie Albert the wife of Chris Albert?

23 A Yes, she is.

24 Q And Brian Albert and Chris Albert are brothers?

25 A Correct.

1 Q When she arrived, did you to talk to her?

2 A Yes.

3 Q Were you in a group? Were you talking to people
4 privately?

5 A No, we were all sitting around the kitchen table.

6 Q Why were you talking to everybody?

7 A We were trying to figure out what had happened. They
8 were trying to be supportive trying to help me.

9 Q What was your mood?

10 A I was extremely concerned. I was calling Kerry trying
11 to get updates about John. I was worried about John, his
12 family, about (c) .

13 Q At that point, did you know whether John was going to
14 live?

15 A I had a very strong -- I think deep down, I knew that
16 John was gone, but, you know, there's -- until you hear it,
17 I think there's that little bit of hope, maybe.

18 Q Did you speak to anybody about Kerry who was not at the
19 home that morning?

20 A I believe I spoke -- yeah, Ms. Read.

21 Q You had a conversation?

22 A Yes. I spoke to her when she was in the ambulance.

23 Q Did you speak to her again later that day?

24 A No. I think I texted her asking her for Kerry's number
25 because I didn't have it.

1 Q Did you hear back?

2 A No.

3 Q Did you ever speak to Ms. Read again?

4 A No, I've never spoken to her again.

5 Q When you were trying to get information from Kerry and
6 you were in Fairview, did anybody else other than the
7 people you described arrive at Fairview?

8 A Chris Albert -- oh, Brian Higgins showed up and Chris
9 Albert.

10 Q Did you know Brian Higgins?

11 A I knew him as a friend of Brian's.

12 Q Did you see him at the Waterfall that night before?

13 A Yes, I did.

14 Q And after you arrived Fairview that night after leaving
15 the Waterfall, was Brian Higgins one of the people there?

16 A Yes.

17 Q And did you talk about what had happened in front of
18 Brian Higgins as well?

19 A Yes.

20 Q Was there a group discussion?

21 A I wouldn't say discussion. I would just say like, for
22 instance, someone would ask me a question because everybody
23 just didn't make sense to anybody. No one knew what had
24 happened.

25 MR. JACKSON: Objection.

1 THE COURT: So just move on.

2 Q So was there a lot of questions about what you saw or
3 heard?

4 A Yes.

5 Q You mentioned earlier that you felt like you were in a
6 state of shock. Did you feel like you were still in that
7 state, or were things changing?

8 A Little by little, as I sat there, I started -- like
9 things started coming back to me that were -- that had been
10 said to me earlier.

11 Q Did something significant come back to you about what
12 happened earlier or what you heard?

13 A Yes.

14 Q And what is that?

15 A When Ms. Read stated to myself and the female, "I hit
16 him. I hit him. I hit him."

17 Q And did anything else over the course of that morning
18 come back to you about that moment?

19 A Throughout -- when I was still at Fairview or
20 throughout the day?

21 Q Still at Fairview.

22 A I believe that was maybe the main thing. I can't be
23 sure what time what memories came back.

Testimony of Jen McCabe

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Cw. v. Read

1-39

1 Q When you remembered the defendant's statements to the
2 first responder, did you decide to do something with that
3 information?

4 A Yes, Officer Lank had said if, you know, remembered
5 anything or needed anything before this date, you know, the
6 next the state police came to give him a call.

7 Q Did you?

8 A I did, yes.

9 Q And you knew Officer Lank?

10 A I did, yes.

11 Q Were you comfortable calling him?

12 A Yes, I was.

13 Q Did you tell him the information that you had
14 remembered?

15 A I just asked him to come back to Fairview.

16 Q Did he?

17 A He did, yes.

18 Q When he came back, did you speak to him?

19 A Yes, I did.

20 Q Were you with the group or were you alone?

21 A No, I was with the group.

22 Q Did you tell him what you had remembered?

23 A I did, yes.

24 Q How long did you stay at Fairview for?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-40

1 A I believe somewhere between 11:00, 11:30. I'm being
2 approximately with my times. Officer Proctor called me
3 from the state police.

4 Q Do you know how he got your number?

5 A No.

6 Q Did you have a discussion with him?

7 A He said he would like to come by and question me, and
8 I'm not sure if he said at your house, or if I said I need
9 to go home, because I had four kids at home that were still
10 sleeping. And, you know, I knew that I had to go home to
11 them and eventually break this, you know, news to them and
12 comfort them, and I knew that was going to be a whole other
13 situation to deal with.

14 Q Did you speak to him on the phone before you went home
15 or --

16 A A quick phone call: I'll see you at my house.

17 Q At that point, did you share any information with him?

18 A No, not on the phone.

19 Q Did you return home?

20 A I did, yes.

21 Q Do you remember about what time that was?

22 A I'm going to say 11:30 or after, approximate.

23 Q General?

24 A General, yeah.

Testimony of Jen McCabe

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Cw. v. Read

1-41

1 Q When you got back home, did you have a meeting or speak
2 with Mr. Proctor?

3 A I did, yes.

4 Q Was it a phone call or an in-person conversation?

5 A He came into my house with Officer Bukhenik.

6 Q Him and Trooper Bukhenik came in?

7 A Yes.

8 Q Was there anybody else in your home?

9 A My husband was home, and my brother-in-law Brian Albert
10 came over.

11 Q Did you speak to them?

12 A Yes.

13 Q Did you tell them any additional information at that
14 point?

15 A The troopers or --

16 Q The troopers.

17 A Yes, I know I had said what Karen had said to me, and
18 then she had said, "I hit him. Could I have hit him?" I
19 told them how she showed up at my house. I just basically
20 gave them the events of that morning.

21 Q At that point, did you mention anything about the
22 defendant's broken taillight?

23 A At that conversation, no.

24 Q Did they leave?

25 A They did leave, yes.

1 Q At some point, did they reach out to you again, or did
2 you reach out to them?

3 A At some point. I had another conversation with them a
4 few hours later. I'm not sure if they called me or if I
5 called them. Q Do you know what, generally, the content
6 of that conversation was?

7 A Yes, I had remembered that Karen had told me about her
8 taillight.

9 Q As you're processing that morning, are you trying to
10 think and re-create the event, or are you trying to put it
11 out of your mind?

12 A I couldn't get it out of my mind.

13 Q While you were at home, did you receive any updates
14 from anybody, Kerry Roberts, or anybody about John?

15 A Yes. When I was still at the Alberts, Kerry had given
16 me word that, you know, John had passed. Then once I got
17 home, I know different friends who were starting to hear.

18 MR. JACKSON: Objection.

19 THE COURT: Next question.

20 Q Without saying -- without content, were you receiving
21 contacts calls, text messages --

22 A Yes.

23 Q -- from other people?

24 A Yes.

25 Q And were you reaching back out to other people?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-43

1 A Some, yes.

2 Q At some point, did you go over to Meadows Road?

3 A On Sunday, I did, yes.

4 Q Was Sunday the next day?

5 A Yes, it was.

6 Q Why did you go over to Meadows?

7 A Kerry and I went over with my daughter and her daughter
8 to see the family and to offer support and our sympathy.

9 Q You said you and Kerry, how did you get there?

10 A Kerry picked me up.

11 Q Prior to that evening, you and Kerry you described
12 weren't friends or familiar?

13 A Correct.

14 Q Were things changing?

15 A Yes, rapidly.

16 Q When she picked you up, who else did you pick up with
17 you?

18 A My daughter, who is (C) 's friend.

19 Q And was anybody else or any of Ms. Roberts' family in
20 the car?

21 A Yes, her daughter was in the car as well.

22 Q So it was you, Ms. Roberts, and your two daughters?

23 A Yes.

24 Q You said you went to Meadows.

25 A Yes.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-44

1 Q Why did you go there?

2 A To offer our condolences, sympathy, support, to be with
3 the family. I mean, I loved them.

4 Q Were they staying at Meadows?

5 A They were at Meadows, yes.

6 Q When you went there that next day, can you describe the
7 traffic and the people that were there?

8 A There was a houseful of family, friends, coworkers,
9 loved ones. I mean, the car repairman. Like, anyone and
10 everyone.

11 Q Did you ever see the defendant?

12 A No.

13 Q While you were at the house, did you have a chance to
14 speak to Mrs. O'Keefe?

15 A Yes, I did.

16 Q At some point that day, did you leave the house?

17 A Yes.

18 Q Who did you leave with?

19 A Kerry and my daughter stayed to be with (C), and we
20 left with her daughter.

21 Q Where did you go?

22 A We were heading home, but then we ended up dropping off
23 her daughter at her friend's house.

24 Q Now, who's her daughter?

25 A Kerry's --

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-45

1 Q Don't give me a name. Do you know her daughter?

2 A Kerry's daughter, yes.

3 Q Was Kerry's daughter friends within any of the Lanks?

4 A Yes, Kerry's daughter is good friends with Mike Lank's
5 daughter.

6 Q When Ms. Roberts drove over to Mr. and Mrs. Lank's
7 house, did you meet anybody?

8 A Yes, her daughter, Kerry's daughter, went in the house,
9 and Mrs. Lank came out. Her and Kerry are very good
10 friends. So she came out to offer support and condolences.

11 Q Was it still cold outside?

12 A Yes, it was freezing.

13 Q When she was offering her support, was she inside or
14 outside the car?

15 A She jumped into the back seat.

16 Q During that time you spent with Officer Lank's wife,
17 did you ever go into the house?

18 A I have a faint memory. I think I went in and used the
19 bathroom at one point.

20 Q When you were having a conversation with Mr. Lank's
21 wife, were you talking about what had happened?

22 A Yes. She was -- Kerry was just explaining the morning,
23 the phone calls, the scene, things like that.

24 Q Were you trying to get any type of inside information
25 or push the investigation in any particular direction?

1 A No, I didn't speak much. It was mostly just Kerry and
2 Trish, and Trish was just being a supportive friend to
3 Kerry.

4 Q At some point, did you get together with Ms. Roberts
5 and try to memorialize what you had saw or thought that
6 morning?

7 A Yes.

8 Q Why did you do that?

9 A Peg had asked Kerry to do a timeline. So Kerry came
10 over and we were sitting down talking about it, and so my
11 sister was there and she said that she would jot it down
12 for us.

13 Q So when you got together, it was at the request of Mrs.
14 O'Keefe?

15 A Yes.

16 Q When she made that request, and she asked you to do
17 that, did you question why?

18 A No, I just -- she wanted us to do it so I did it.

19 Q Why?

20 A She wanted us to remember and try to jot down
21 everything we remembered so we wouldn't forget.

22 MR. JACKSON: Objection.

23 THE COURT: So I'm going to sustain as to what she
24 knows.

25 MR. JACKSON: Move to strike.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-47

1 THE COURT: Jurors, disregard that statement.

2 Q Now, did you speak to officers further in the future?

3 A Yes.

4 Q Can you count how many times you spoke with the police
5 or the interviews that you had?

6 A There were a lot, or a good amount I should say.

7 Q At some point, did any of the police officers ask if
8 they could take your phone and copy everything on it?

9 A Yes.

10 Q Did you have any hesitation about that?

11 MR. JACKSON: Objection.

12 THE COURT: Ask it differently.

13 Q Were you cooperative?

14 A Yes.

15 Q Why?

16 A I wanted to help in any way I could.

17 MR. BRENNAN: May I approach?

18 THE COURT: Yes.

19 Q Handing you a piece of paper. Do you recognize that?

20 A Yes, I do.

21 Q And what is it?

22 A That's my signature.

23 Q Do you know what that document is?

24 A Yes, it's the consent form that I signed from my phone.

25 MR. BRENNAN: I'd like to introduce this as an exhibit.

Testimony of Jen McCabe

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Cw. v. Read

1-48

1 THE COURT: Any objection?

2 MR. JACKSON: Yes, Your Honor, but we can do it at
3 sidebar. I have no objection to the identification of it.
4 Moving it is an exhibit, I do have an objection.

5 THE COURT: I'll see you at sidebar, then.

6 (Sidebar commences:

7 THE COURT: May I see it?

8 MR. BRENNAN: Yes.

9 THE COURT: Okay.

10 MR. JACKSON: Thank you, Your Honor. As a matter of
11 consistency, this is a police report. Like any other
12 police report, it's hearsay. It's not admissible. I have
13 no issue with the fact that Ms. McCabe has addressed it and
14 identified it, but it shouldn't be an exhibit. I have no
15 problem with this identification.

16 MR. BRENNAN: I will mark it for identification. If it
17 comes up on cross-examination, I may move to admit it. If
18 it doesn't, I agree.

19 MR. JACKSON: That's fine.

20 THE COURT: All right. So I'll have Madam Court
21 Reporter mark it.

22 end of sidebar.)

23 THE COURT: Madam Court Reporter, that will be for
24 identification, please.

25 (Whereupon Exhibit E, was marked for identification.)

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1-49

1 Q After that day when you met with Ms. Roberts and you
2 tried to memorialize your memory about what happened, after
3 that day have you discussed what happened that morning with
4 other people?

5 A Yes.

6 Q And have you discussed it with police over time?

7 A Yes.

8 MR. BRENNAN: I have no further questions at this time.

9 THE COURT: Okay.

10 **CROSS-EXAMINATION**

11 **BY MR. JACKSON:**

12 Q Good morning, Mrs. McCabe.

13 A Good morning.

14 Q When was the last time you spoke with Kerry Roberts
15 before your testimony today?

16 A She called me last night.

17 Q What did you all discuss?

18 A She asked if my daughters were going to be staying home
19 from school today because her daughter would possibly join
20 them.

21 Q Did you discuss anything having to do with your
22 testimony?

23 A Not the testimony, no.

24 Q Did you discuss anything in that conversation with her
25 prior testimony?

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4/30/25

Cw. v. Read

1-50

1 A No.

2 Q Are you aware that she testified last week?

3 A Yes.

4 Q Did you discuss anything after that, after she
5 testified, with her about her testimony?

6 A No.

7 Q Did you -- we know that through her testimony that you
8 had a conversation with her the morning that testified,
9 correct?

10 A Yes.

11 Q Did you discuss with her what you anticipate to be her
12 testimony before in that conversation before she testified?

13 A No.

14 Q Had you and Ms. Roberts ever discussed anything about
15 either one of your testimonies, either in the last
16 proceeding or anticipation of this proceeding?

17 A No.

18 Q So for the entirety of the last year, even though you
19 both went through a proceeding last trial where you both
20 testified under oath, and it was highly, highly publicized,
21 neither one of you, your good friend Kerry Roberts and you,
22 have ever discussed either of your testimonies between that
23 time and this time?

1 A No. We discussed the case, and we've discussed what
2 happened that moment, the moments of the morning, but we
3 have not discussed testimony.

4 Q Okay. So let's break that down for a second. I'm
5 talking about because the timing matters. I'm just asking
6 at this point, if you'll bear with me, just a year from
7 last year at a different proceeding to this year, you have
8 discussed this case?

9 A Yes.

10 Q With Ms. Roberts?

11 A Many times, yes.

12 Q And you discussed the specifics of her memory, which
13 would be reflected in her testimony, correct?

14 A We talked about what happened that morning.

15 Q So you were talking about what she remembers happening
16 that morning, correct?

17 A No, what happened that morning.

18 Q Okay. Not to put too fine a point on it, Ms. McCabe,
19 but if you asked me what I had for dinner last night, it's
20 my memory of I I had for dinner last night. Would you
21 agree with that?

22 MR. BRENNAN: I object.

23 THE COURT: Sustained.

24 Q Did you talk about her perception of what happened that
25 morning during the last year?

1 A We've talked about what has happened, yes.

2 Q Okay. So I'm trying to break it down between you and
3 Ms. Roberts. You discussed her perceptions and her memory
4 of what happened, as well as and separate and apart from,
5 your memory and your perceptions, correct?

6 A Correct.

7 Q So there have been circumstances in which you and Ms.
8 Roberts have compared, by definition, what she remembers
9 versus what you remember, correct?

10 A I wouldn't say prepare.

11 Q Now, let's move to -- well, what would you say in terms
12 of what you've discussed and why?

13 A I would say that we both talked about what we've
14 discussed, but it wasn't like a comparison. We weren't
15 comparing anything. Q You've talked about what you
16 discussed. What does that mean? You talked about your
17 testimony?

18 A No, we've discussed what happened that morning.

19 Q Right.

20 A In those moments, so, you know, oh, when I got a phone
21 call and that's my story, you know, that's my -- I got a
22 phone call in the morning, and then Kerry would say, "Yeah,
23 I got a phone call as well."

24 Q As you said, that's your story, correct?

25 A It's not a story.

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1-53

1 Q Those were your words.

2 A It's the truth. It's the truth.

3 Q Okay. So for instance, when you got a phone call at
4 4:53 in the morning, Kerry Roberts wasn't there, correct?

5 A Correct.

6 Q But you discussed that with her?

7 A Correct.

8 Q And you told her what perception of that -- your memory
9 of that phone call was, even though she was not percipient
10 to and did not witness the phone call, correct?

11 A I told her about the phone call, correct.

12 Q As well as many other details that she was not privy to
13 personally, correct?

14 A Correct.

15 Q Conversations that you had, for instance, conversations
16 that you claim you've had with Ms. Read, correct?

17 A Correct.

18 Q And you've told her what your perception is of those
19 conversations or you memory was or is of those
20 conversations with Ms. Read, correct?

21 A Which conversations with Ms. Read?

22 Q Any conversation. Just anything that she wasn't privy
23 to, you've discussed that with her?

24 A Some things, yes.

1 Q Okay. And conversely, Ms. McCabe, or obviously, she's
2 also discussed certain perceptions and memories that she
3 has about this case, the facts of this case as she recalls
4 them that you were not necessarily privy to, correct?

5 A Yes.

6 Q Things that may have taken place outside your presence,
7 correct?

8 A Correct.

9 Q And you've talked about -- I'm sorry -- she's talked to
10 you about things -- now I'm getting myself confused.

11 You all have talked about things that were outside of
12 her perception, and outside of your perception, and you've
13 shared those with each other.

14 A We shared our experiences. We've become very close.
15 We both lived through a traumatic experience.

16 Q How many times would you say you and Ms. Roberts have
17 discussed your individual perceptions of what you remember
18 happening on the 28th or the 29th of January, 2022; how
19 many times?

20 A It would be hard to put a number on that. We talk
21 about -- it's hard. We're bonded. We talk about the
22 trauma that we live every day. Karen called us to help,
23 and we both answered the phone.

24 Q And that bonding is the glue that holds you together is
25 this case, correct?

1 A Yes.

2 Q So that probably, by definition, is the foundation of
3 many, many, many of your conversations, wouldn't you agree?

4 A We've grown into friends where we talk about many other
5 things --

6 Q Sure.

7 A -- besides the case.

8 Q Sure. The movie you saw last weekend and what the kids
9 are doing next week, right?

10 A And -- yes, absolutely. We talk many different things
11 just like girlfriends do.

12 Q I'm just concerned with and asking you about the
13 subject matter of this case, and the details and the facts
14 of this case. You two have probably talked hundreds of
15 times, that's fair to say, about your individual
16 perceptions, your respective perceptions, of this case,
17 correct?

18 A This happened three years ago. We've talked about it
19 time and time again. This case has traumatized us.

20 Q And talking about -- I'm sorry. I didn't mean to
21 interrupt you.

22 THE COURT REPORTER: Can you repeat your answer?

23 A Traumatized.

24 Q Okay. It would be impossible for you two to have had so
25 many conversations about your respective perspectives of

1 the details of that day without that influencing the other
2 person, correct? Meaning, you've somehow been influenced
3 by Ms. Roberts's perceptions and her memories, correct?

4 A I don't think I would say influenced.

5 Q Would you say that she's been influenced by your
6 perceptions and your memories?

7 MR. BRENNAN: Objection.

8 THE COURT: Would you say that, Ms. McCabe?

9 THE WITNESS: No, I wouldn't.

10 THE COURT: Next question.

11 Q How many times have you met with anybody from the DA's
12 office, and I'm just going to limit the time frame right
13 now, in anticipation of your appearance in this trial,
14 yesterday and today?

15 A I'd say roughly four or five.

16 Q Can you give me a time frame when those four or five
17 meetings were?

18 A I don't have dates. I do remember at one point I met
19 with Mr. Brennan. He was new to the case, so I went in,
20 and he introduced himself.

21 Q How long ago was that?

22 A I --

23 Q Weeks or months?

24 A I can't give you a time frame. I'm sorry.

25 Q Do you think it was last summer?

1 A No.

2 Q Do you think it was --

3 A No, it was more recent. Sorry.

4 Q Was it in the fall of last year?

5 A No.

6 Q It was in 2025 sometime?

7 A I believe so, yes.

8 Q Do you think it might've February or January?

9 A Again, I can't give you an exact. I'm sorry.

10 Q All right. I'm going to talk about the time frames of
11 those conversations, and I'll ask you a little bit more
12 about those conversations. So that was the first meeting
13 you had was with Mr. Brennan in anticipation of your
14 testimony. What were the subsequent four meetings or so
15 that you had - with whom and approximately what time?

16 A Okay. So another meeting with Mr. Brennan. Are you
17 looking for was there?

18 Q Sure. Who else was there?

19 A I mean, can I give you a general answer? I didn't
20 write down, like, every meeting who was there.

21 Q Of course. Was Mr. Lally there?

22 A During one or two of the meetings he was, yes.

23 Q Was Ms. McLaughlin there?

24 A Yes.

25 Q Was anybody there else from the DA's office there?

1 A Officer or Trooper Tully was there at one, Trooper
2 Bukhenik was there at one, the witness advocates were
3 there. And again, give or take the particular meeting.

4 Q Those are two meetings that you talked about with Mr.
5 Brennan and others. What about the third meeting?

6 A No, I'm sorry. I was lumping a few of them together.
7 I apologize.

8 Q Sure, understood.

9 How many meetings would you have, let's just start
10 there, how many meetings have you had with Mr. Brennan and
11 either staff or colleagues?

12 A So after the first initial meeting, again, I didn't
13 write them down off the top of my head. I can think of two
14 or three more after that.

15 Q Okay.

16 A The first initial one.

17 Q So that's either four or meetings with Mr. Brennan and
18 some combination of his colleagues, Mr. Lally, Ms.
19 McLaughlin, perhaps, Mr. Nelson perhaps, the other employee
20 of the DA's office, and trooper -- Troopers Bukhenik and
21 Trooper Tully?

22 A Correct.

23 Q Were you asked questions about your -- at any of these
24 meetings. I'm just going to lump them all together, at any
25 of these five meetings.

1 By the way when is the most recent?

2 A Last night I had a Zoom call in regard I think the
3 Court asked them --

4 THE COURT: I'm going to stop you right there.

5 Q I'm going to ask you a different question. If you
6 don't mind, I'm going to lead you through this question.

7 A Okay.

8 Q You had a conversation last night. I'm not interested
9 in that particular conversation. That was for a very
10 specific purpose. I'm asking you about everything leading
11 up to, but not including last night's conversation, okay?

12 A Okay.

13 Q So let's leave that one out. You've had -- I think you
14 mentioned either four or five other meetings with Mr.
15 Brennan and some combination of his colleagues and the law
16 enforcement?

17 A Yeah, in my five, I included that one from last night.

18 Q Okay. Fair enough. Were you asked questions and those
19 -- we're just going to call them four, four meetings. Were
20 you asked questions during those four meetings about your
21 testimony at the first proceeding last year?

22 A I reviewed my -- I did review some of my testimony,
23 yes.

24 Q In what format, paper transcript?

25 A No, no, we just watched a little bit of it.

1 Q Did you watch your direct examination?

2 A A little bit, yes.

3 Q Did you watch your cross-examination?

4 A A little, yes.

5 Q Who cross-examined you?

6 A You did.

7 Q That was me?

8 A Yes.

9 Q And did you watch the redirect or even part of it?

10 A No.

11 Q Did you watch any part of the -- any subsequent version
12 of recross or additional questions that you were asked?

13 A I don't believe so, no.

14 Q Was there a specific area that Mr. Brennan asked you to
15 look at and review in terms of your direct or your cross-
16 examination?

17 A No.

18 Q Did you watch the entirety of the direct examination
19 and the entirety of the cross-examination?

20 A I do not believe so, no.

21 Q Were you questioned by Mr. Brennan following your
22 review of that direct and cross-examination?

23 A No.

24 Q So he didn't ask you any questions about any of your
25 answers?

1 A I don't -- he showed me a dash cam, and would ask me to
2 point out who's this, who's that, the Waterfall video. Who
3 -- is this you? Is this somebody? Those are the types of
4 questions that he asked me.

5 Q What about any discussion about your demeanor and how
6 you performed in the last proceeding?

7 MR. BRENNAN: Objection.

8 THE COURT: Sustained.

9 Q I'll ask it a different way.

10 What about your demeanor -- I'm using a probably poor
11 worded form how you came across, your demeanor in the last
12 proceeding?

13 MR. BRENNAN: Objection.

14 THE COURT: Sustained.

15 Q Did you discuss changing your demeanor in any way,
16 shape, form, or fashion from the last trial -- I'm sorry --
17 the last proceeding to this trial -- my mistake -- from the
18 last proceeding to this trial, was your demeanor ever
19 discussed?

20 A No, I was just told to slow down, answer the question,
21 and, you know, answer it to the best of my memory.

22 Q Was there any discussion about talking about your
23 background, for instance, your family and your children
24 being a sports mom as you talked about here on direct
25 examination?

1 A No, I believe that in the previous one as well.

2 Q Was there any discussion about crafting your testimony
3 in any way to suggest a softer approach?

4 A No.

5 Q Was there any discussion about how to develop your
6 testimony from beginning to end?

7 MR. BRENNAN: I object.

8 THE COURT: Sustained.

9 Q Did Mr. Brennan ask you about or -- let me ask it a
10 different way. Did Mr. Brennan take you through a series
11 of questions, for instance, as a -- almost a test run for
12 questions that you might be asked either on direct
13 examination or cross-examination?

14 A No.

15 Q Did you practice your testimony with any member of the
16 DA's office?

17 A No.

18 Q Were there any sessions where you sat and you were
19 subjected to a cross-examination, like, a fake cross-
20 examination or a fake direct examination?

21 A No, there was not.

22 Q Anything like that?

23 A No.

1 Q What were the things that standout in your mind? You
2 said you had at least four meetings. How long was each
3 meeting, by the way, ish?

4 A The first meeting I think was very quick. It was just
5 the introduction --

6 Q Thirty minutes, less than thirty minutes?

7 A Approximately. I don't want to give a time because I'm
8 not sure.

9 Q Okay.

10 A But it was fairly quick, yes.

11 Q Okay. What about the second meeting?

12 A Again, I don't know specific meetings, but I can tell
13 you that there was a longer one where I did watch the dash
14 cam video, look at different pictures, things like that.

15 Q What kind of pictures did you look at, other than the
16 dash cam video?

17 A Pictures of John's house.

18 Q Okay. The same photos that we saw today?

19 A Yes.

20 Q How long in total would you say all those meetings were
21 just taking them altogether?

22 A I really can't give you a -- I really can't give you an
23 estimate. I think the first one was very quick. The
24 second one of them was it a little bit longer. Maybe a
25 couple of hours.

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1 Q Okay. And then the third one, was that also a couple of
2 hours or was that one fairly quick?

3 A That was fairly quick, yes.

4 Q So fair to say between two, three, four hours total
5 meeting times?

6 A Again, I'd have to probably go back and look at the
7 date and the time. I really can't give you a specific
8 amount of time. I apologize.

9 Q Did Trooper Tully or Trooper Bukhenik ask you any
10 questions during the course of any these meetings?

11 A Regarding the case, no, but we did briefly talk about
12 how my kids were, how their kids were.

13 Q But they didn't ask you any questions about your
14 testimony, about the case, about your memories, about
15 specific facts?

16 A I do not believe so, no.

17 Q During any of these meetings, was anybody taking notes
18 - Ms. McLaughlin, Mr. Lally, Mr. Brennan, any of the
19 troopers?

20 A No, I don't believe so.

21 Q So there was several hours worth of meetings with you
22 and nobody -- nobody scribed any notes that you saw?

23 A None that I saw, no.

24 Q And these meetings were not recorded?

25 A I do not believe so, no.

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1-65

1 Q Ms. McCabe, I'm going to ask you a series of questions
2 about your family because I just want to be sure it's
3 crystal clear who's who.

4 You are married to Matt McCabe, correct?

5 A Yes.

6 Q Your sister is Nicole Albert?

7 A Yes.

8 Q Nicole is married to Brian Albert?

9 A Yes.

10 Q It was Brian Albert's home that you were at 34 Fairview
11 that you arrived at where John's body was found, correct?

12 A Yes.

13 Q The same home where that late night gathering was on
14 January 28, going into the morning of the 29th, correct?

15 A Yes.

16 Q Would you consider yourself to be close with your
17 sister Nicole and Brian?

18 A Yes, very close.

19 Q Your families are close. It's not just you and Nicole,
20 your whole families are close, correct?

21 A Yes, we have a very close family.

22 Q How long have you known Brian Albert?

23 A Since I was in kindergarten.

24 Q You consider him, even though he is not blood related
25 to you, you consider him family?

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1-66

1 A Yes.

2 Q In addition to Brian and Nicole Albert, you're also
3 very close with Chris and Julie Albert, correct?

4 A Yes.

5 Q And just to be clear, I'm going to do this slowly.
6 Brian Albert's younger brother is Chris Albert, correct?

7 A Yes.

8 Q Chris Albert is married to Julie Albert?

9 A Yes.

10 Q You consider Chris and Julie family even though there
11 may not be a blood relation as well, correct?

12 A Yes.

13 Q Chris Albert is a Canton select board member; is that
14 right?

15 A Now he is, yes.

16 Q And that's in Canton. I said select board member, did
17 I mention Canton select board member?

18 A It is in Canton, yes.

19 Q All right. Obviously it's in Canton. The Canton Police
20 Department reports to the select board, correct?

21 A I'm not aware.

22 Q You're not aware of that echelon?

23 A No.

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1-67

1 Q You're aware that Brian Albert, your friend of I'm not
2 going to say how many years, but since kindergarten is or
3 was a Boston police officer?

4 A Yes.

5 Q He had been a lifetime law enforcement officer for some
6 30 years before he retired recently, correct?

7 A Yes.

8 Q He's a trained first responder, obviously?

9 A Yes.

10 Q Brian Albert and Chris Albert have another brother
11 named Kevin Albert, correct?

12 A Yes.

13 Q Kevin Albert is a detective with a police department,
14 correct?

15 A Yes, I believe that's his title.

16 Q Which police department is Keven Albert associated
17 with?

18 A Canton.

19 Q And you've grown up in Canton your whole life you
20 indicated?

21 A Yes.

22 Q Your entire family has grown up in Canton, correct?

23 A Yes.

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1 Q And you, Ms. McCabe, have three sisters. Nicole, we've
2 talked about. You also have a sister named Shelley; is
3 that right?

4 A Michelle, yes.

5 Q Michelle?

6 A Mm-hmm.

7 Q And Denise, who you mentioned on your direct
8 examination?

9 A Yes.

10 Q Nicole is also known by a nickname; is that right?

11 A Yes.

12 Q What is Nicole's nickname within the family?

13 A Coco.

14 Q Does Shelley also have a -- well, I guess Shelley is a
15 shorter name for Michelle, correct?

16 A Yes.

17 Q What about Denise?

18 A She's Dee-Dee.

19 Q Dee-Dee?

20 A Yeah, like D-E-E, D-E-E.

21 Q Your father lives close by in a neighboring town,
22 correct?

23 A Yes.

24 Q Don't tell me the town but it's relatively close to
25 Canton?

1 A Twenty minutes, yes.

2 Q His name is Tom Weeks?

3 A Yes.

4 Q There are -- I'm not going to go through all of them
5 right now because the family tree is getting large, but
6 there are children, cousins, second cousins, nephews,
7 aunts, uncles, there's a combination of familial relations
8 within that set of folks that I just talked about - Chris,
9 Brian, Nicole, you, Matt, the folks that we just talked
10 about?

11 A Yes.

12 Q That family, that large family, celebrates holidays
13 together, I'm guessing?

14 A We don't typically, you know, celebrate with Kevin and
15 Chris, but my family does, yes.

16 Q Along with Brian Albert and Nicole?

17 A Yes.

18 Q Birthdays are celebrated within that family?

19 A Yes.

20 Q Go on vacations together I'm guessing?

21 A Yes.

22 Q Gatherings like the one on the 28th?

23 A Yes.

24 Q Special events?

25 A Yes.

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1-70

1 Q Spend weekends together?

2 A Yes.

3 Q You mentioned a lot of sporting events. There's a lot
4 of sporting events that you all go to together?

5 A Yes.

6 Q So it is very, very easy to see that it's an extremely
7 close knit family?

8 A Yes.

9 Q And naturally, you're very protective of your family as
10 anybody would be?

11 A Yes, I love my family.

12 Q You had also said that you knew, and your words, liked
13 Karen Read, my client on the 28th of January, 2022,
14 correct?

15 A Yes.

16 Q But she very much is not family, correct?

17 A Correct.

18 Q She certainly was not as important to you as your
19 actual family the Alberts, the McCabes, the folks
20 associated with them; is that right?

21 A Yes.

22 Q On January 28, 2022, members of the Albert family and
23 the McCabe family all went to a bar together, had drinks
24 together that night, Waterfall we heard a little bit about
25 that, correct?

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1-71

1 A Correct.

2 Q Ultimately, you went back to your sister's house for
3 the after party that we've heard so much about, that was at
4 Brian Albert's house; is that right?

5 A Yes.

6 Q You have been interviewed I think you indicated
7 multiple times. You didn't even give a number of how many
8 times you've been interviewed by police in this case; is
9 that right?

10 A Yes.

11 Q Your family is connected to people at Boston Police
12 Department. We just talked about that, Brian Albert; is
13 that right?

14 A Well, Brian was a Boston police officer.

15 Q Right. So when I say connected, there's some familial
16 or family or friendly connection to that police agency,
17 Boston Police Department, it would be Brian Albert; is that
18 correct?

19 MR. BRENNAN: Objection.

20 THE COURT: The objection is sustained.

21 Q There's also a connection to the Massachusetts State
22 Police through your family; is that right?

23 MR. BRENNAN: Objection.

24 THE COURT: So define connection.

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1-72

1 Q Julie and Chris Albert are very, very close to you,
2 correct?

3 A I'm close with Julie and Chris, yes.

4 Q You're aware that Michael Proctor's sister Courtney is
5 basically best friends with Julie?

6 A No, I'm not aware of that. She's best friends with
7 Julie's sister Jillian.

8 Q Okay. So Courtney's best friends with Jillian whose
9 sisters to Julie --

10 A Yes.

11 Q -- who's married to Chris, who's an Albert, who's the
12 little brother of Brian Albert?

13 A Yes.

14 Q And Canton Police Department, there's also some
15 connections there as well, Kevin Albert being the most
16 obvious of them?

17 MR. BRENNAN: Objection.

18 THE COURT: I'm going to allow that. Do you have a
19 connection with the Canton Police Department?

20 A Not with the department, but with Kevin Albert.

21 Q Right. Who's a member of the department?

22 A Yes, but my relationship is with him.

23 Q Understood. You indicated that you've been interviewed
24 by law enforcement agents associated with Massachusetts

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1 State -- I'm sorry -- Canton Police Department, that would
2 be Officer Lank?

3 A Yes.

4 THE COURT: Can I stop you for a second and see counsel
5 at sidebar, please?

6 (Sidebar commences:

7 THE COURT: So I'm sorry to call you up here, but I
8 wanted to address this. How do you intend to mention that
9 the FBI agents because we're not mentioning any federal
10 investigation.

11 MR. JACKSON: I'm going to say, agents from another
12 agency, not Massachusetts State Police, not Canton Police
13 Department, and not Boston Police Department. I'm doing it
14 in the negative.

15 THE COURT: Yeah, and you did that before. Agent is
16 the problem. Okay. Agent suggests FBI.

17 MR. JACKSON: That's what they are.

18 THE COURT: You can say other law enforcement agency,
19 not Canton, not state police, not Canton police. What ever
20 you said, not Boston police.

21 MR. JACKSON: The only issue I have with that, and I'm
22 trying to stay as sanitized as I possibly can because I
23 understand the Court's order and I intend to follow it.

1 The only issue with that is there are agency protocols
2 with the FBI that are not attended to Massachusetts State
3 Police, Canton police, or any other state or local agency.

4 THE COURT: You can bring that up, that there were
5 protocols from another agency. Just you cannot say FBI.
6 You cannot --

7 MR. JACKSON: I will not.

8 THE COURT: You cannot talk about federal grand jury.
9 But you did with Ms. Roberts, you said agents.

10 MR. JACKSON: Right.

11 THE COURT: So you can't mention agents.

12 MR. JACKSON: Okay. So use a different word than agent.

13 THE COURT: Law enforcement from another agency.

14 MR. JACKSON: Okay.

15 THE COURT: She knows, right? Your witnesses all know
16 that we're not to discuss this? And your witnesses they're
17 not to discuss this?

18 MR. JACKSON: They do. As a matter of fact, I was
19 going to say - and this is a great reminder - I was going
20 to ask that whether or not she had been admonished that she
21 is not to disclose that it's the FBI. I, obviously, I have
22 no contact with her at all.

23 MR. BRENNAN: I haven't given that specific
24 instruction. When we have a break, I know there's a

1 sequestration order, I wouldn't mind if the defense goes
2 with me, but I can give her that clear admonishment.

3 MR. JACKSON: I'm about to go into that area.

4 THE COURT: That's why I stopped.

5 MR. JACKSON: I figured you flagged it for that reason.
6 Do you want to take a break now?

7 THE COURT: All right. We can take our morning recess.
8 Just so it's clear, and the same thing with federal grand
9 jury minutes. You put it in last time as SGJ. So stay away
10 anything that makes them different other than it's not the
11 same as Mass. State Police. Anything that gives a
12 suggestion -- let me finish, please. Excuse me. One
13 minute.

14 MR. JACKSON: Yes.

15 THE COURT: So just anything that stays away from it.
16 Now you can talk to your client all you want. I just
17 wanted to share my thoughts.

18 MR. JACKSON: I don't mean to be disrespectful. I'm
19 sorry. I didn't mean to turn my back.

20 THE COURT: So we'll take a break now for 20 minutes.

21 MR. JACKSON: Sure.

22 end of sidebar.)

23 THE COURT: Jurors, it seems like it's a good time to
24 take the morning recess, so we'll see you in about 20
25 minutes.

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1 (Court in recess at 10:42 a.m.)

2

3

4

5 (Court in session at 11:06 a.m.)

6 THE COURT: I'll see counsel at sidebar.

7 (Sidebar commences:

8 (SEALED SIDEBAR.)

9 end of sidebar.)

10 (Jury in at 11:33 a.m.)

11 THE COURT: Jurors, thank you for your patience.

12 Sometimes there are matters that we need to address and

13 that's what happened here. So we appreciate your patience.

14 Mr. Jackson, could we please have Ms. McCabe back in

15 here.

16 (Witness present.)

17 THE COURT: All right. Mr. Jackson, go right ahead.

18 MR. JACKSON: Thank you, Your Honor.

19 Q When last we left off, we were talking a little bit

20 about some of the familial connections that your family has

21 with certain law enforcement families. We talked about

22 Boston Police Department, obviously Brian Albert. We

23 talked a little bit about the Massachusetts State Police

24 and knowing friends of friends with regard to Chris and

25 Julie, correct?

1 MR. BRENNAN: Objection.

2 THE COURT: Knowing friends of friends of Chris and
3 Julie?

4 Q Friends of friends of Chris and Julie.

5 THE COURT: Is that your relationship?

6 A With who?

7 Q I'd ask you that -- I'll ask you a different question.

8 A Okay.

9 Q Little bit vague. Courtney Proctor is friends with
10 Julie's sister?

11 A Yes.

12 Q And obviously knows -- Courtney obviously knows Julie
13 and Chris?

14 MR. BRENNAN: I object.

15 THE COURT: Sustained.

16 Q And there's also a connection to Canton Police
17 Department through Kevin Albert; is that right?

18 MR. BRENNAN: I object.

19 THE COURT: Can you answer that? Is there a
20 connection? Do you have a connection with the Canton
21 Police Department through Kevin Albert?

22 A Not with the police department, but Kevin Albert is
23 Brian Albert's brother.

24 Q Right and Kevin works for whom?

25 A The Canton police.

1 Q Thank you. So you've been interviewed many times by
2 different law enforcement agencies be they Massachusetts
3 State police, Canton police, or otherwise, correct?

4 A Yes.

5 Q Those interviews have not just been over a period of
6 weeks, it's been over a period of weeks and months and even
7 years since this occurred, correct?

8 A Yes.

9 Q You were contacted by another law enforcement agency
10 that was not Massachusetts State police and not Canton
11 police Department at one point in April of 2023; do you
12 remember that?

13 A Yes.

14 Q I want to talk for a second about that series of
15 interview or that interview.

16 You were contacted at your residence by these members
17 of this law enforcement agency, correct?

18 A Yes.

19 Q All right. Later that same day, you did sit down with
20 those same law enforcement officers for a formal interview?

21 A On that?

22 Q On that same day that you were contacted by them, they
23 also went into your home and actually interviewed you,
24 correct?

25 A Yes, it was brief.

1 Q All right. Those law enforcement officers identified
2 themselves as being associated with an agency that is not
3 Massachusetts State Police; you understood that?

4 A Yes.

5 Q And you understood that they were not involved with the
6 Canton Police Department either, correct?

7 A Correct.

8 Q Completely separate agencies; is that right?

9 A Yes.

10 Q During the course of that interview, those officers
11 informed you very specifically, Ms. McCabe, that it is a
12 crime to lie to them even during an interview, correct?

13 A Yes.

14 Q Do those law enforcement officers informed you that
15 they were investigating certain circumstances attendant to
16 John O'Keefe's death, correct?

17 A They were very vague on what they were.

18 Q Understood.

19 A I don't know what they were.

20 Q Okay. But you did understand it had something to do
21 with your involvement at 34 Fairview on January 28th, 29,
22 2022 --

23 MR. BRENNAN: Objection.

24 Q -- as a witness or otherwise?

25 MR. BRENNAN: Objection.

1 THE COURT: Sustained as to certain terminology, Mr.
2 Jackson.

3 Q Sure. Let me see if I can rephrase that, Ms. McCabe.

4 You were aware f the subject matter of their interview,
5 right? They weren't interviewing you about a car you bought
6 last year, correct?

7 A Correct.

8 Q They were interviewing you about, basically, about what
9 you're testifying to here, correct?

10 A When I first met with them, the conversation was pretty
11 vague.

12 Q But the subject matter, vague or specific, was about
13 this subject matter?

14 A Yes.

15 Q Okay. Fair enough.

16 They first contacted you telephonically, called you on
17 the phone; is that right?

18 A Actually, they walked up to my car.

19 Q They walked up to your car?

20 A Yes.

21 Q Okay. That was the very first introduction, correct?

22 A Yes.

23 Q At that point they had not identified themselves,
24 correct?

25 A They didn't, no.

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1-81

1 Q All right. And at that point, you told them that were
2 not Jennifer McCabe. They asked who you who you were and
3 you said I'm Nicole.

4 A I thought they were, like, selling something so I was,
5 like, oh, no, I'm not the homeowner.

6 Q Fair enough. Fair enough. However, after they said --
7 sorry -- after you said, I'm not Jennifer McCabe, you
8 walked in the house. They then called you on the phone?

9 A Yes, correct.

10 Q They were still sitting outside your house?

11 A I don't know where they were, but they did call me.

12 Q They were close by?

13 A I'm not aware.

14 Q Well, the call came almost immediately after you walked
15 back into the house, correct?

16 A I'm not sure how much time had passed.

17 Q Give me an idea. It wasn't hours?

18 A No.

19 Q Five or ten minutes?

20 A It was soon after, I'm just not sure. I can't tell you
21 where they were located.

22 Q Okay. They told you that they would -- at that point,
23 they identified themselves as being law enforcement
24 agents, correct?

25 A When they talked to me, yes.

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1-82

1 Q And they told you at that time that they were not with
2 Canton police -- you knew, at least, they were not with
3 Canton Police Department; they were not troopers with
4 Massachusetts State Police, correct?

5 A Yes.

6 Q Okay. And they told you that they would like to have an
7 interview with you. They would like to have a sit down
8 talk with you, correct?

9 A Yes.

10 Q You told them that you would be willing to submit to an
11 interview, but you needed about ten minutes to get ready,
12 correct?

13 A Yes.

14 Q You ultimately did allow them into your home, and you
15 did sit down for a formal interview with them, correct?

16 A Yes, brief, yes.

17 Q And during that formal interview inside the home, it
18 was explained to you that it would be a crime for you to
19 lie to them on any material issue, correct?

20 A Yes.

21 Q During the course of your interview, your husband Matt
22 McCabe came home; is that right?

23 A Yes.

24 Q As these law enforcement agents continued to question
25 you, law enforcement officers continued to question you at

1 some point, you informed them that yo did not feel
2 comfortable with any further questioning, and you suspended
3 the interview, correct?

4 A Yes.

5 Q Before leaving, however, those same law enforcement
6 officers asked you if you had contacted anyone in those ten
7 minutes when you indicated I need ten minutes to get ready.
8 Between the time they called you and the time they showed
9 up and came inside your house, correct?

10 A Yes.

11 Q You told them that you had contacted your husband Matt
12 McCabe?

13 A Yes.

14 Q Which is why he came home, right?

15 A Yes.

16 Q And you told them that you had called Kerry Roberts
17 before they interviewed you, correct, at that moment?

18 A I'm not 100 percent sure, but if you have it I'll -- it
19 sounds -- it seems like something I would do, but if you
20 have it, you can show me.

21 Q Absolutely.

22 MR. JACKSON: If I may have just a moment, Your Honor?

23 THE COURT: Okay.

24 MR. JACKSON: May I approach, briefly?

25 THE COURT: Yes.

1 Q First I'm going to ask you, Ms. McCabe, if you
2 recognize that as being a report of that interview, just
3 generally, yes or no?

4 A It appears to be, yes.

5 MR. JACKSON: May I approach the witness stand and
6 stand on the witness stand for a couple of questions?

7 THE COURT: Yes.

8 MR. JACKSON: Thank you.

9 Q If I can have that, I want to direct your attention, if
10 I may, and for Court and Counsel, page 3 of 4. Start with
11 the second to the last full paragraph going into page 5,
12 top full -- I'm sorry page 4, top full paragraph.

13 A Okay.

14 Q If you could review those two photographs, read them to
15 yourself and then look up and let me know when you're
16 finished?

17 A (Witness complies.)

18 MR. JACKSON: May I approach, Your Honor?

19 THE COURT: Yes.

20 MR. JACKSON: Thank you.

21 Q Thank you, Ms. McCabe.

22 Did viewing those paragraphs refresh your recollection
23 as to whether or not -- as to what you told those agents
24 initially? I'm sorry. What you told those officers

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1-85

1 initially from that other law enforcement agency that --
2 about who you contacted in that ten minute interval?

3 A Yes, I told them, correct.

4 Q And you told them that you had contacted your husband
5 Matt McCabe and Kerry Roberts?

6 A Correct.

7 Q I want to stick with that for just a quick second.

8 One of the first calls you made after being contacted
9 by this other law enforcement -- these other law
10 enforcement officers from the different agency, one of the
11 first calls you made was to Kerry Robert; is that right?

12 A She was the first one?

13 Q That's what I'm asking. One of the first two calls you
14 made, your husband?

15 A Right.

16 Q Come home. There's law enforcement outside my door I'm
17 guessing is what you said, correct?

18 A I don't remember my exact words, no. But I did ask him
19 to come home, correct.

20 Q And Kerry Roberts?

21 A Okay. Yes.

22 Q You wanted to let Ms. Roberts know that you had been
23 contacted by certain officers from a different agency,
24 correct?

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1-86

1 A I was curious. I was curious to as if they had already
2 been to her because --

3 Q That was my next question.

4 A Oh, yeah.

5 Q You also wanted to find out had these law enforcement
6 officers from this different agency contacted her, correct?

7 A Yes, because typically if you enter our town --

8 Q I just asked yes or no.

9 A -- she's --

10 Q Ms. McCabe, yes or no.

11 A Oh, sorry. I was just trying to explain. I'm sorry.

12 Q Is that why you contacted her to find out if, in fact,
13 they had contacted her before you, yes or no?

14 A Yes.

15 Q And you also wanted to find out what she told them, if
16 she had been contacted by them, correct, that was your
17 motivate in calling them?

18 A No.

19 Q So you just wanted to find out had she been contacted?

20 A Yes.

21 Q If she had said yes, you weren't going to say, and what
22 the hell did they say, what did they ask you?

23 A Well, I can't -- I most -- I can't say what I would
24 have answered -- what I would have asked her, but I know I

1 was calling to see if they had been there, yes, that is
2 correct.

3 Q That was your intent.

4 A I called to ask her if they had been there, yes.

5 Q So that was your intent, yes?

6 A Yes.

7 Q Your motive in calling Kerry Roberts at that moment
8 before your interview was to ensure that your story would
9 line up with her story, Ms. McCabe, isn't that right?

10 A No, that is not.

11 Q You wanted to find out if she had talked to these
12 particular law enforcement officers, and what she had told
13 them so that your story could somehow align or it could
14 inform how you responded to questions that they asked you;
15 isn't that true?

16 A That's not true. We both know what happened. We don't
17 have to have a story. There is no story; there is what
18 happened and that's it.

19 Q So if that's true, Ms. McCabe, you have no reason to
20 call Kerry and ask her if she had been contacted by this
21 law enforcement agency because it's just the truth,
22 correct?

23 A We're going through this whole experience together. We
24 call each other about everything.

25 Q There would be no reason --

1 A That's nothing more than that.

2 THE COURT: Let her finish her answer. Go ahead, Ms.
3 McCabe. You can finish.

4 A There's nothing more than me calling and saying, hey,
5 did they come to your house? That's what we did. When the
6 media showed up, when Ms. Read's private investigator
7 showed up, we just gave each other the heads up, hey,
8 somebody's coming because we're just like normal moms.
9 We're not used to this.

10 Q And that's helpful in making sure that the stories she
11 tells are consistent with the stories you tell to different
12 law enforcement agencies, correct?

13 A No, we are not telling stories.

14 THE COURT: So let her finish. You said no, what?

15 A I said, no, we're not telling stories. We don't have to
16 compare.

17 Q And if fact what you were telling was just the truth,
18 there'd be no reason for you to inquire about who's
19 contacted her, when, and for what purpose, would there?
20 There'd be no reason, would there?

21 A There's no inquiring. It's like when you're a little
22 -- when the ice cream truck was at the street next door,
23 and I'm saying, "Did the ice truck come?" It's really that
24 simple.

25 MR. JACKSON: Objection, Your Honor. Objection.

1 THE COURT: So you asked a question.

2 MR. JACKSON: Not about an ice cream truck.

3 THE COURT: She answered it. An argumentative question
4 and she responded in kind.

5 Next question, Mr. Jackson.

6 MR. JACKSON: Thank you.

7 Q You also testified in your direct examination, staying
8 with Ms. Roberts for just a second, about a timeline that
9 you and Ms. Roberts put together, correct?

10 A Correct.

11 Q That's another example of the two of you talking about
12 your own perceptions and comparing and contrasting those
13 perceptions and putting it down on paper, correct?

14 A No, I --

15 Q Is that yes or no?

16 A It's a no. If you -- can I explain or no?

17 Q I'm sure Mr. Brennan will have follow-up questions.

18 A Okay.

19 Q After you gave that long -- that answer to those law
20 enforcement officers at that separate law enforcement
21 agency, they asked you was there anyone else that you
22 contacted in that ten minute period before we got a chance
23 to talk to you and your was no, correct?

24 A Correct.

25 Q And that was a lie, correct?

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1-90

1 A It wasn't a lie, no.

2 Q Was it true?

3 A I had --

4 Q Was it the truth or a lie?

5 A It wasn't a lie.

6 Q So it was the truth. You had not spoken to any other
7 person between the time they contacted you telephonically,
8 and you said, "I needed ten minutes," and then they came in
9 the door. During that arc of time, you didn't talk to
10 anybody else or contact anybody else other than Matt McCabe
11 and Kerry Roberts. Now you're testifying that was a true
12 statement. Yes or no, ma'am?

13 A I can't answer that yes or no.

14 Q It's pretty binary. Had you -- well, let me ask you
15 this. In point of fact, you did talk to other people, you
16 contacted others, in addition to Matt McCabe and Kerry
17 Roberts, correct, yes or no?

18 A Yes, I did.

19 Q So when you said no to the answer, did you contact
20 anyone other than Matt and Kerry, that would be by
21 definition, Ms. McCabe, a lie, correct?

22 A No.

23 Q It's not a lie? Is there some shade of lie that I'm
24 not aware of?

1 A It's the way you're asking the question. If I could
2 explain it would make more sense to you.

3 Q Let me ask you -- the agents asked you. Let me go over
4 this one more time, then I'm going to move on.

5 A Okay.

6 Q The agents asked you in fact, did you contact anyone
7 between the time we called you and set up the interview and
8 the ten minutes before we walked in the door. They asked
9 you that question, correct?

10 MR. BRENNAN: I object.

11 THE COURT: The objection is sustained. Watch the
12 choice of language.

13 MR. JACKSON: I'm sorry.

14 Q I meant the law enforcement agencies. That law
15 enforcement agency, the members of that law enforcement
16 agency, contacted you?

17 A Mm-hmm.

18 Q Sorry. They asked you who you had contacted between
19 the time they first telephoned you and walked in the door
20 ten minutes later, correct?

21 A Correct.

22 Q Okay. Data point number one. Data point number two,
23 you told them Matt and Kerry, correct?

24 A Correct.

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1-92

1 Q You actually contacted -- they then asked you, did you
2 contact anyone else other than Matt and Kerry, correct?

3 A Correct.

4 Q And you said no; is that correct?

5 A At that moment I said no, yes.

6 Q Or any moment?

7 A No, at that moment because they had just come in my
8 house --

9 MR. BRENNAN: Objection.

10 THE COURT: Only one person can talk at a time.

11 Q You said the word no, correct ?

12 THE COURT: She was finishing her answer. Finish your
13 answer.

14 A I had said no because I'm going to be -- I was in a
15 situation where there are two officers from a different
16 agent had come in, were asking me questions, or they had
17 said can I come in and ask you questions. At first, I
18 thought they were selling something, then they identified
19 themselves. I just dropped my kids off at school. Going
20 to be completely honest, I hadn't brushed my teeth. So I
21 kind of made some phone calls.

22 MR. JACKSON: Objection, Your Honor.

23 THE COURT: So next question, Mr. Jackson.

24 MR. JACKSON: Thank you.

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1 Q Ms. McCabe, after you said no that you hadn't contacted
2 anybody else, those two law enforcement officers from that
3 separate agency who had told you it was crime to lie to
4 them, they left, correct?

5 A Yes.

6 Q Subsequent to that, Mr. McCabe, your husband --

7 MR. BRENNAN: Objection.

8 THE COURT: Sustained.

9 Q They left you their card so you could call them if need
10 be, correct?

11 A Yes, they did.

12 Q And you in fact did call them back, correct?

13 A Yes, I did.

14 Q Without telling me the content of the conversation you
15 had, did you have a conversation with Mr. McCabe?

16 MR. BRENNAN: Objection.

17 THE COURT: Sustained.

18 Q Did you call them back and say, "I'm calling you back
19 because my husband told me?"

20 MR. BRENNAN: Objection.

21 Q "That I lied to you, and I better clear that lie up."

22 THE COURT: So sustained. Jurors, remember I told you
23 before that only answers to questions are evidence. Be
24 mindful of that.

25 MR. JACKSON: May we approach?

1 THE COURT: Next -- yes.

2 (Sidebar commences:

3 MR. JACKSON: Just to speed things along.

4 THE COURT: All right. Wait. Ms. Read was coming up.
5 Go ahead.

6 MR. JACKSON: Just to speed things along, if it's a
7 spousal privilege or marital privilege, it's been waived.
8 She told the agents that in fact my husband told me to call
9 you because I lied to you and he's concerned.

10 THE COURT: I'm not going to let you into it.

11 MR. BRENNAN: Your Honor --

12 MR. JACKSON: It's one question.

13 MR. BRENNAN: I want to know it's not just privileged;
14 it's disqualified, number one. Disqualified. Secondly,
15 asking the questions on a disqualified issue that you know
16 substantively is not admissible is just as effective as
17 asking the question. I would ask you to caution counsel in
18 the questioning not to introduce inadmissible evidence on
19 purpose, including disqualified information. It's too late
20 after I object. The jury has heard this information.
21 There is no curative instruction I can ask Your Honor to
22 give to correct this method. This method is improper. It
23 puts information in front of the jury that is inadmissible.
24 MR. JACKSON: And I disagree foundationally with
25 counsel's proposition. It is not disqualified information.

1 If it was privileged, it was waived. She told the law
2 enforcement officers, "My husband and I had a conversation.
3 My husband told me to call you." She didn't call on her
4 own volition. She would not have cured the lie. That's the
5 point.

6 THE COURT: So there's a history, Mr. Jackson,
7 throughout the last trial, you did this. It's been
8 objected to in this trial, and I'm going to sustain every
9 objection.

10 MR. JACKSON: What's the this? I did what?

11 THE COURT: You put inadmissible evidence before a
12 jury. You would put things in. At one point, it was at
13 sidebar you objected to Mr. Lally doing it, and I said
14 there's a pattern of this, and you said, "I don't do this.
15 I don't do this," and did it throughout the trial. There's
16 an objection; I'm sustaining the objection. I don't want
17 to keep reminding the jurors that only answers are
18 evidence. So there we go. Back to table. I'm sustaining
19 the objection.

20 MR. JACKSON: Okay.

21 end of sidebar.)

22 MR. JACKSON: May I?

23 THE COURT: Yes.

24 MR. JACKSON: Thank you, Your Honor.

25 Q You ultimately called these officers back, correct?

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1-96

1 A Yes.

2 Q And you explained to them that you had been untruthful
3 with them, correct?

4 A I explained that I had forgotten to mention a couple of
5 people that I had reached out to.

6 Q You had forgotten; is that your testimony?

7 A Yes.

8 Q You had forgotten. You remembered Matt and you
9 remembered Kerry, but you had forgotten the others that you
10 just contacted maybe 30 minutes before?

11 A Yes.

12 Q There were five people that you contacted, weren't
13 there?

14 A I contacted Matt.

15 Q Let's go through them. I'm just asking yes or no --

16 A I know four off the top of my head.

17 Q Okay. Let's go through them. You contacted your
18 husband, correct?

19 A Yes.

20 Q You contacted Kerry Roberts, correct?

21 A Yes.

22 Q You contacted Peggy O'Keefe, correct?

23 A Yes.

24 Q Then, Ms. McCabe, you contacted the district attorney's
25 office, correct?

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1 A My witness advocate.

2 Q The district attorney's office?

3 A My witness advocate who works for the district
4 attorney's office.

5 Q Thank you, Ms. McCabe. And you also left out that you
6 contacted Brian Albert himself, correct?

7 A Yes, my brother-in-law.

8 Q For some reason, your brother-in-law, who's the 30-year
9 Boston police detective, correct?

10 A Yes.

11 Q And on whose lawn John O'Keefe was found dead or dying?

12 MR. BRENNAN: Objection.

13 THE COURT: I'll allow that.

14 Q Correct?

15 A Yes.

16 Q For some reason, you didn't want these offices to know
17 that you had communicated, specifically, with Brian Albert
18 the homeowner just before you talked to them, correct?

19 A No, incorrect.

20 Q There was some reason that was important enough for you
21 to lie about, even though you had been admonished that it's
22 a crime to lie about that to those officers, correct?

23 A Incorrect. I didn't lie to them. I had forgotten who I
24 had called.

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1 Q And all of a sudden, you had an epiphany right after
2 they walked out the door?

3 A Yes. Matt said, "Who have you spoken to?"

4 MR. BRENNAN: Objection.

5 THE COURT: I'm going to allow it. It's out. You're
6 not going to go any further, Mr. Jackson.

7 Q Ms. McCabe, I want to draw your attention to January
8 28, 2022. You had gone out drinking with your family at
9 the Waterfall Bar and Grille, correct?

10 A I went with my husband and met my sister, yes.

11 Q And met the other family, correct? Other family
12 members?

13 A My niece.

14 Q Matt McCabe, Nicole, Chris, Julie, Caitlin, correct?

15 A Yes.

16 Q I think you mentioned Tristan was there as well?

17 A Yes.

18 Q You were later joined by Nick and Karina Kolokithas; is
19 that right?

20 A Yes.

21 Q Ultimately, Brian Higgins showed up?

22 A Yes.

23 Q And Brian Albert showed up?

24 A Yes.

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1-99

1 Q You previously indicated that Caitlin's boyfriend
2 Tristan left early for whatever reason. He had errands to
3 run or had to get to bed early for some reason; is that
4 right?

5 A He left before us, yes.

6 Q So he didn't stay throughout the shank of the evening?

7 A Through the what?

8 Q The shank of the evening? Through the course of the
9 evening --

10 A Oh, okay.

11 Q -- is that right?

12 A Yes.

13 Q And ultimately at the Waterfall, John O'Keefe and Ms.
14 Read showed up as well?

15 A Yes.

16 Q You didn't see any tension at all between John O'Keefe
17 and Karen that night, did you?

18 A No, I didn't.

19 Q They appeared to be getting along?

20 A Yes.

21 Q Sort of a normal couple having a nice evening out
22 together? A Yes.

23 Q Neither John nor Karen Read appeared drunk or
24 inebricated, out of sorts?

1 A I wouldn't categorize them as drunk or inebriated. But
2 again, I don't know what the definition of drunk is.

3 Q Well, that's a fair statement. I'm not asking for
4 their BAC, but they didn't appear to be stumbling around
5 falling all over themselves and sloppy drunk, correct? Out-
6 Of-Control, nothing like that?

7 A No.

8 Q You did see Brian Higgins and Brian Albert at a high
9 top table sort of together through the course of that
10 evening, correct?

11 A We were all kind of around, like, a long high top
12 table.

13 Q And John O'Keefe, and as you look at the -- I'm going
14 to use the perspective of the video that we've seen, that
15 camera angle that we've seen. John O'Keefe and Ms. Read
16 were sort of further off in the corner closer to the bar
17 rather than to the tables, correct, along with the
18 Kolokithases and you as a matter fact?

19 A Yes, at different times. Everyone was kind of moving
20 around. I spent the majority of the time that Karen and
21 John were there speaking with Karen.

22 Q Did -- and that was sort of over toward the bar?

23 A We weren't in the bar. We were at the table. So it
24 was one side of the table from the other.

25 Q Fair enough.

1 A It wasn't far away.

2 Q I'm using the bar sort as a landmark. I didn't mean
3 you were siding up to the bar, but just as sort of as a
4 landmark, you were closer to the bar than, for instance, in
5 the foreground, which would be the high top tables in the
6 foreground, correct?

7 A We were just on the other -- I'm confused about this --
8 we were just on the other side of the table.

9 Q Okay. You did see on the opposite side of that high top
10 table, that's where Brian Albert and Brian Higgins were
11 standing, talking, and communicating with each other; is
12 that right?

13 A I believe so. I was talking to Ms. Read. I wasn't
14 really paying attention to them.

15 Q Did you ever see those two men get physical with one
16 another that night?

17 A I did not that night, I did not see that.

18 Q Have you ever seen a full review in all the hours that
19 you've sort of prepped for your testimony, have been shown
20 that Waterfall video from the time you got there until the
21 time you left?

22 A Not the full video, but I have seen a good portion of
23 it, yes.

1 Q Okay. And you've certainly seen the portion where Brian
2 Albert and Brian Higgins get up from the table and sort of
3 get physical with one another, correct?

4 A I would save my more like play fighting, and Nick
5 Kolokithas was a little bit, like, doing it with them as
6 well.

7 Q Okay. So the physical part is, all I'm asking is did
8 they touch each, yes?

9 A Yeah, I guess. I mean, I guess, yeah.

10 Q And you described it as play fighting, correct?

11 A I don't -- we could watch the video. It might explain
12 it better than I could.

13 Q We probably will at some point, but right now, I'm just
14 asking about your memory.

15 You remember them squaring off on one another, playing,
16 but squaring off with one another, correct?

17 A I don't remember them squaring off. Like I said, I
18 just watched a video. I don't remember it from that night,
19 and I didn't really pay attention to look, like, foolish,
20 like, guys. I don't even how to describe it.

21 Q From your perspective and having watched the video, did
22 it appear that they squared off on each other and sort of
23 took a fighting stance?

24 A I didn't look at it that, so I could not say that.

1 Q Did you see them walk up to each other and grapple with
2 one other like they were almost punching each other, Ms.
3 McCabe?

4 A Right.

5 Q I get that.

6 Were they grappling with one another, like faking
7 punches to each other?

8 A I don't know.

9 Q Almost like sparring a little bit?

10 A I don't honestly know.

11 Q But you did see the video?

12 A I saw them together. It's blurry, and they're kind of
13 -- I don't really know what they were doing.

14 Q Okay. But they weren't standing there holding hands,
15 for instance, right?

16 A Oh, God, no.

17 Q They weren't on their phones, right?

18 A They were engaging with each other playfully grabbing
19 at each other. I don't really ...

20 Q Playfully grabbing at each other play fighting,
21 correct, that's my point?

22 A I'd have to watch the video to categorize it as play
23 fighting.

24 Q You don't have that in your head?

1 A I do -- no, it was quick clip. I wasn't focusing on
2 Brian and Brian. I was just identifying that that was
3 myself in the video and there was Ms. Read, and I believe
4 Ms. Read actually did some play fighting to Matt.

5 Q There was in fact -- to Matt?

6 A Yeah, I feel like she went like this to Matt
7 (demonstrating) at one point, yeah.

8 Q Okay.

9 A In the video.

10 Q So let's talk about Brian and Brian, Brian Higgins and
11 Brian Albert. Those two men very large in stature,
12 correct?

13 A They're big guys, yeah.

14 Q Big boys. Lot bigger than me, right?

15 A Yes.

16 Q They took a fighting stance with each other and started
17 grappling, playing, coming toward each other as if they
18 were engaging in a fake physical altercation, correct?

19 A I did not see them. I'm sorry.

20 Q You didn't even see it on the video?

21 A I saw them on the video grabbing at each other. I
22 didn't see stances or -- but, again, I didn't pay much
23 attention to it.

24 Q And that's your best memory as you sit here today?

25 A Yes.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-105

1 Q Okay. Eventually you, your husband, Brian Albert, Brian
2 Higgins, Nicole, Caitlin, everybody went over to 34
3 Fairview at the end of the night, correct?

4 A Yes.

5 Q The bar closed at I'm guessing midnight?

6 A Okay.

7 Q Is that right? I think. We were wrapping around then.
8 I don't know what time it actually closes.

9 Q When you left Waterfall, the people that were still
10 there included Matt, your husband, and John O'Keefe; is
11 that right?

12 A Yes.

13 Q You walked out with Karina Kolokithas and Karen Read?

14 A Yes.

15 Q And you said to Ms. Read something along the lines of,
16 you're coming with me, correct?

17 A I said, "Why don't you come with me?"

18 Q Okay. Fair enough. You were prompting her to join you
19 for the ride over to 34 Fairview; is that right?

20 A Yes.

21 Q You even went outside and sort of waited in the cold.
22 There's a video -- have you seen the video of you outside,
23 the surveillance video of you outside in the cold?

24 A Yes.

1 Q And you're sort of waiting there moving from foot to
2 foot like it's freezing out, which I'm sure it was,
3 correct?

4 A Yes.

5 Q In a big puffy coat of some kind, right?

6 A So the question was I moving foot to foot in a coat?

7 Q My question is more did you see yourself waiting
8 outside in the cold?

9 A I saw myself -- I believe I was in a conversation at
10 that point when I was standing outside there with John and
11 Karen.

12 Q And that's when you were asking Karen to come with you?

13 A No, I asked Karen previously when we were at the door
14 to come with me because I didn't how long Matt and John
15 would be in the bar.

16 Q Right. And that would have by definition brought Karen
17 to 34 Fairview separate and apart from John O'Keefe if
18 Karen had come with you, fair?

19 A Yes.

20 Q Ms. Read and -- Ms. Read ultimately declined your
21 invitation and did go with John; is that right?

22 A John ended up coming to the door so they went together,
23 yes.

24 Q And finally you walked away, and your husband Matt went
25 to 34 Fairview in your personal vehicle, correct?

1 A Yes.

2 Q When you arrived at the 34 Fairview, were you the first
3 among the group that we just talked about to arrive or had
4 others arrived before you?

5 A Others had arrived before me.

6 Q When you walked into 34 Fairview, where was everybody
7 generally located? Give me a layout of the interior of the
8 home, how you walked in, and where everybody was located in
9 that area when you walked in from the Waterfall.

10 A So I walked in through the front door, took a right
11 into the kitchen, and then there were people sitting around
12 the kitchen table - Brian Albert, Jr. Julie Nagel, Sarah
13 Levinson, Caitlin Albert. My sister was over more towards,
14 like, the counters and the sink and Brian Albert and Brian
15 Higgins were -- there's like a room right off the kitchen
16 like a TV room, and they were in there just talking. I
17 think Nicole had like put up some new pictures of maybe her
18 son was in the Marines. They might've been looking at a
19 picture. Vaguely, I have a faint memory of that.

20 Q You indicated that you walked in the front door,
21 correct?

22 A Yes.

23 MR. JACKSON: May I approach, briefly?

24 THE COURT: Yes.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-108

1 Q Can't you just take a look at that photograph just for
2 a second.

3 A Yes.

4 Q Do you recognize the photograph?

5 A Yes.

6 Q What do you recognize that photograph as being?

7 A It's my sister's house.

8 Q 34 Fairview?

9 A Yes, sorry.

10 Q Brian Albert's house as well?

11 A Yes.

12 MR. JACKSON: Your Honor, I'd like to mark this for
13 identification.

14 THE COURT: Identification's good.

15 MR. JACKSON: Thank you.

16 (Whereupon Exhibit F, Photograph, was marked for
17 identification.)

18 MR. JACKSON: If I may have just a moment, Your Honor?

19 THE COURT: Okay.

20 MR. JACKSON: Your Honor, with the Court's permission
21 I'm going to show a different exhibit so the other issue
22 can be resolved with the Court's permission. It's
23 Commonwealth Exhibit 3.

24 Permission to publish.

25 THE COURT: Yes.

Testimony of Jen McCabe

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Cw. v. Read

1-109

1 MR. JACKSON: Mr. Wolk, could you highlight or enlarge
2 the house as much as you can. Thank you.

3 Q Ms. McCabe, do you recognize what's depicted in this
4 photo? I know it's at a little bit of an angle.

5 A Yes.

6 Q What is that?

7 A That is 34 Fairview.

8 Q Can you -- I think this laser will work.

9 MR. JACKSON: May I approach?

10 THE COURT: Yes.

11 Q Can you use that laser and point to the front door that
12 you entered when you walked in the house?

13 A (Witness complies.)

14 Q Okay. That's directly in the middle of the -- just to
15 the left of the flagpole for purposes of this photograph,
16 correct?

17 A Yes.

18 Q Okay. Is there another entry door on the house that you
19 may not be able to see but you know the general area?

20 A Yes.

21 Q Where is that door?

22 A So that would be -- see where those two windows are?

23 Q Yes.

24 A The door would be kind of behind that right there. So
25 it's right to the left of those two windows.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-110

1 Q And, Ms. McCabe, just staying with the doors for a
2 second, is there another door associated with the garage?

3 A Oh, actually, yeah, there is. Right there.

4 Q Right next to that side door?

5 A Yes.

6 Q Okay. Thank you.

7 MR. JACKSON: May I approach?

8 THE COURT: Yes.

9 Q You didn't go in the side door. You went in the front
10 door that night?

11 A Yes.

12 Q You indicated that once inside the house, you were sort
13 of in the kitchen area; is that right?

14 A I was in the kitchen, yes.

15 Q You weren't paying special attention to Brian Albert or
16 Brian Higgins, what they were doing? As a matter fact, I
17 think they went into a different room; is that right?

18 A There's a room -- kind of kitchen opens up into the --
19 so they were in there.

20 Q So the only two that you recognized at this point in
21 the night, not being sort of with everybody else, were
22 Brian Albert and Brian Higgins separated out in the family
23 room or whatever that room is called, living room?

24 A Yeah, like, just right there. Just right where they
25 are, kind of right in the next room.

1 Q When you first pulled up, did you notice any vehicles
2 in front of Brian Albert's house?

3 A Yes, I did.

4 Q What vehicles did you notice -- vehicle or vehicles?

5 A Just one.

6 Q What was that vehicle?

7 A It was a Jeep.

8 Q Can you describe the Jeep for us, please?

9 A I really can't. All I can say is that when I pulled
10 down the Jeep was on -- parked on the street in front of a
11 mailbox and I turned into the driveway.

12 Q Okay. Did the Jeep have any special features on it that
13 you remember that you can describe?

14 A Not that I can recall.

15 Q Big giant snowplow on the front?

16 A Again, it was dark. I just -- I didn't really pay too
17 much detail to it beyond I just asked, whose Jeep is that.

18 Q And did you learn whose Jeep that was?

19 A It did, yes.

20 Q Who's Jeep was it?

21 A It was a Brian Higgins' Jeep.

22 Q And you said it was parked in front of the mailbox; is
23 that right?

24 A Yes.

1 Q So as you're looking at the house, the mailbox would be
2 closest to the driveway; is that right?

3 A Yes.

4 Q Rather than, for instance, the flagpole on the other
5 side of the lawn?

6 A Correct. So if the flagpole is here, there's the lawn
7 and here's the drive -- I mean, here's the mailbox, and
8 then the driveway is right here.

9 Q Okay.

10 A Does that make sense?

11 Q It does to me. Thank you for that.

12 You've previously indicated that the back edge of his
13 -- of that vehicle, Brian Higgins' Jeep was at the side
14 basically of the driveway which is what you just described.
15 You'd be blocking the mailbox. The rearend associated with
16 the driveway entrance, correct?

17 A Yes.

18 Q Have you ever discussed having seen that Jeep in that
19 spot with anybody else in this case?

20 A As that including previous testimony, or --

21 A It is, and at any time. Before you testified at the
22 previous hearing, had you discussed having seen that Jeep
23 in that spot with anybody else, for instance, your husband?

24 MR. BRENNAN: Objection.

25 THE COURT: Sustained.

1 Q Was there any other car on that curb line, if you will,
2 other the Jeep when you pulled in?

3 A Not that I remember.

4 Q And Brian Higgins, it was his Jeep, he's in the house.
5 That Jeep's not moving, correct? So it stayed where it
6 was?

7 A Yes.

8 Q At some point, did you observe Ms. Read's vehicle pull
9 up to the driveway -- I'm sorry -- pull up to the house?

10 A I was told there was a vehicle outside, so I went and
11 looked, yes.

12 Q Where was that vehicle? When you looked that first
13 time, where was Ms. Read's SUV?

14 A When I went to the front door and looked out, it was
15 straight ahead.

16 Q So that would be parallel or in line with the Jeep,
17 correct? A Yes.

18 Q Directly in front of the Jeep?

19 A I don't know the distance, but, yes, you're correct it
20 was in front of the Jeep.

21 Q So if the Jeep was a normal -- it's a full-size Jeep,
22 correct?

23 A I don't know what size it is.

24 Q Certainly, an SUV it's a full-size SUV?

25 A Yes.

1 Q So that would take up much of the room of the curb area
2 in front of 34 Fairview, between the Jeep, assuming there's
3 a snowplow, and a full size SUV, correct?

4 A I'm not really sure of the whole area. There was a
5 Jeep, and then there was a car. I just don't know the
6 distance between them.

7 Q You gave a description of the vehicles that were out in
8 front of 34 Fairview in your January 29, 2022, interview
9 with Trooper Proctor, correct?

10 A He came to my house and asked me questions, correct.

11 Q When you gave that interview to Trooper Proctor, you
12 indicated to him that you first observed Ms. Read's vehicle
13 parked on the street by the driveway, correct?

14 A I never said by the driveway, no.

15 Q So if that's in a report, Trooper Proctor got that fact
16 wrong, that detail wrong?

17 MR. BRENNAN: Objection.

18 THE COURT: Sustained.

19 Q If in fact -- well, let me ask it this way.

20 What did you say to Trooper Proctor about where that
21 vehicle was?

22 A Ms. Read's vehicle?

23 Q Correct.

24 A I told him it was straight out front the window --
25 straight out front at the front door. Sorry.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-115

1 Q Trooper Proctor wrote a report about his interview with
2 you, correct?

3 A Correct.

4 Q You've seen that report in other hearings; is that
5 right?

6 A Yes.

7 Q Your interview with him was on January 29, do you
8 remember the date? I'm sorry I just said the date. Do you
9 remember the time? My mistake.

10 A I don't remember the exact time. I'm assuming
11 afternoon, like, after 12:00 or I'm not 100 percent. I'm
12 sorry.

13 Q You had been contacted by Trooper Proctor while you
14 were still at 34 Fairview Road; is that right?

15 A Yes.

16 Q Ultimately, instead of coming from the Canton Police
17 Department to 34 Fairview Road, you went home to your house
18 to the (f) address?

19 A Yes, I did.

20 Q And Trooper Proctor ended up meeting you there,
21 correct?

22 A Yes.

23 Q And in addition to you and Matt being there, Brian
24 Albert showed up, correct?

25 A I asked him to come.

1 Q So you asked your brother-in-law to come to the
2 interview that you were having with Trooper Proctor
3 formally in furtherance of his investigation surrounding
4 the circumstances of this case, correct?

5 A Correct.

6 Q But Brian Albert did show up to your house?

7 A He did. I asked him to come, yes.

8 Q and he was inside the house when Trooper Proctor
9 ultimately interviewed you, correct?

10 A He was in the house, yes.

11 Q And you had spoken to Brian Albert before Trooper
12 Proctor had interviewed you formally, correct?

13 A I believe so, yes.

14 Q As a matter of fact, several times you had to have
15 spoken to him at 34 Fairview. You've already said that.

16 A Oh, right, yeah, we went out there.

17 Q And then obviously you spoke to him about the interview
18 before Trooper Proctor got to your house to interview you
19 on the 29th as well, correct?

20 A We were just talking about what happened. It wasn't,
21 like, specifically about Trooper Proctor.

22 Q Right. Not about Trooper Proctor. You talked to Brian
23 Albert about the circumstances of this case before you
24 spoke with Trooper Proctor?

25 A Yes, I have.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-117

1 Q Do you remember exactly what you said to Trooper
2 Proctor about the location of the SUV in front of the
3 house?

4 A I knew what I said, yes.

5 Q Okay. What exactly did you say to him?

6 A I said the car was straight out front of the front
7 door. When I was looking out the front door, it was
8 straight ahead.

9 Q Isn't it true that what you actually said, Ms. McCabe,
10 is that you first observed the vehicle on the street by the
11 driveway facing in the direction toward Chapman?

12 MR. BRENNAN: Objection.

13 THE COURT: I'll allow it. Is that what you said?

14 THE WITNESS: Those are not my words, no.

15 THE COURT: Okay. Next question.

16 Q You've already indicated that following the events of
17 January 28, and 29, you have spoken extensively with your
18 families and friends, members of your family and your
19 friend group, about what happened that night, correct?

20 A Yes.

21 Q And that includes Brian and Nicole Albert; is that
22 right?

23 A Yes.

24 Q That includes Matt McCabe, your husband, correct?

25 A Yes.

1 Q That includes Chris and Julie Albert?

2 A Yes.

3 Q It includes other people that were there that night
4 including Brian Higgins?

5 A I haven't spoken to Brian Higgins since I believe John
6 O'Keefe's wake.

7 Q But you did speak to him that morning at 34 Fairview;
8 is that right?

9 A Oh, yes, he was there, yes.

10 Q As a matter fact, he's the one that told you to call
11 Officer Lank back, and have Officer Lank come back for the
12 additional statement you wanted to give Officer Lank; is
13 that right?

14 A He may have suggested it. I'm not sure.

15 Q So in those discussions that you had with all these
16 folks, you talked some details about that night being at
17 the bar, the house, who was where, all of those things,
18 correct?

19 A Yes.

20 Q You talked about the timing of the night, who arrived,
21 when my people arrived at 34 Fairview, when people arrived
22 at Waterfall Bar and Grille, correct?

23 A No, those really aren't details we discussed.

24 Everybody kind of knows when they came and when they left.

1 We talked more about, you know, living with everything that
2 we've gone through.

3 Q Well, what about on the morning of January 29, when
4 everybody was still in that sort of friends and family
5 gathering inside 34 Fairview?

6 A When I was there with my husband and sister and
7 brother-in-law and Brian's friend and Julie Albert, I was
8 trying to piece together what had happened. They were all
9 being supportive. They had no idea what happened. We were
10 just kind of sitting there in utter shock waiting to hear
11 from Kerry about John. It was nothing more than just us
12 being together and trying to figure out what happened. I
13 had gotten a phone call from Karen to help her.

14 Q And during that conversation -- during that
15 conversation or that series of conversations, you were
16 sharing what your observations of that evening were, what
17 your story was, how the evening started out, how it ended
18 for you, correct, how the morning ended for you, correct?

19 A No, not correct.

20 Q During the time that you folks were inside the house
21 discussing this, there was no law enforcement agent or
22 officer inside that house, correct?

23 A Correct.

24 Q So the entire family and the friend network that we're
25 talking about with whom you discussed all these events,

1 everybody was entitled to and did coordinate their
2 statements without any separation and without any law
3 enforcement oversight, correct?

4 A I was with my family, my sister, my brother-in-law. It
5 wasn't really a group of us. As I mentioned like five or
6 six people. I was in shock. I didn't know what had
7 happened. They were just asking me what happened,
8 questions like that, and I absolutely told them. But there
9 was no story, there was no us being allowed to. That was
10 my family. They were just there with me.

11 Q But nobody was separated by law enforcement, correct?

12 A I don't believe there was a reason to separate us.

13 Q Well, notwithstanding what you think was a reason,
14 you're not a professional investigator, correct?

15 A I'm not.

16 Q You're not a trained investigator?

17 A No.

18 Q You're certainly not a homicide detective, correct?

19 A No.

20 Q None of you witnesses were ever separated, were you
21 that morning?

22 A There was no reason to separate us.

23 Q I'm not asking if there was a reason, Ms. McCabe. I'm
24 asking you whether or not factually anybody was separated

1 in that house or was everybody allowed to talk amongst
2 themselves?

3 A I was with my family. We didn't need to be allowed.

4 Q Okay. Let me try this again.

5 Was anybody in that house separated when the witnesses
6 separated from each other, the family who are witnesses,
7 were they separated from each other by law enforcement?

8 A At that point, I don't think anyone but myself in that
9 were witnesses.

10 Q I'm not asking what your determination of who the
11 witnesses are. I'm asking you whether the folks in that
12 house were separated by law enforcement before you were
13 able to have discussions about the events of January 28,
14 and 29. That's a yes or no question. Were you separated
15 or not?

16 A At one point when Mike Lank was in the house, he had
17 separated and talked to Nicole, then Brian, then Matt.

18 Q And then he promptly left and left everybody in the
19 house together, correct?

20 A He left us, yeah.

21 Q Nobody was taken down to the station; is that right?

22 A No.

23 Q As a matter fact, Trooper Proctor didn't even come over
24 to 34 Fairview, the scene of the incident, to interview
25 you, correct?

1 A I asked him to meet at my house because I had to go
2 home to my children.

3 Q And he accommodated you, didn't he?

4 A He did, yes.

5 Q And he accommodated the fact that Brian Albert escorted
6 you to the house for your interview, correct?

7 A Brian didn't escort me, no.

8 Q Well, he went to your house at the same time that
9 Trooper Proctor was there to interview you, correct?

10 A He came at some point, yes, by himself.

11 Q Before Trooper Proctor did the interview?

12 A I'm not sure if he there -- if he had got there before
13 or when he arrived.

14 Q Well, you've testified in the past that --

15 A Yes.

16 Q -- Brian Albert came to your house alone. I don't mean
17 you came in the same car, but he followed you over to your
18 house before Trooper Proctor ever got there, and he was in
19 the house while Trooper Proctor conducted his interview of
20 you, correct?

21 A Yes, Brian was in the house for the interview.

22 Q Thank you. You've already indicated that you been
23 discussing this case with certain other witnesses not for
24 days or weeks or months but literally for years, most
25 specifically Kerry Roberts, correct?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-123

1 A The case in general, yes.

2 Q Just before Kerry Roberts testified at a grand jury
3 proceeding in this case, you were with her, weren't you?

4 A I don't recall what you're talking about.

5 Q Do you remember being at the grand jury?

6 A Yes.

7 Q Do you remember testifying at the grand jury?

8 A Yes, the one back in April --

9 Q April 11, 2022?

10 A Yes.

11 Q Does that sound right?

12 A That sounds about right, yeah.

13 Q Do you remember being there in an anteroom with some
14 other folks?

15 A What's an anteroom?

16 Q An anteroom, a waiting room?

17 A Oh, yeah.

18 Q Do you remember that testimony?

19 A Yes.

20 Q Do you remember Kerry Roberts being with you in that
21 exact same anteroom?

22 A Yes.

23 Q And that was right before her testimony, correct?

24 A I believe so, yes.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-124

1 Q So in answer to my question, you two were together
2 literally just before she testified at the grand jury,
3 which was the first formal under oath testimony that she
4 ever gave; is that right?

5 A Yes.

6 Q When she testified at the grand jury, was that before
7 or after you two gotten together and created this timeline?

8 A We did the timeline right after John had passed.

9 Q But you testified the answer is you testified after the
10 timeline was created, correct?

11 A Yes.

12 Q Brian Albert and his family had a dog on January 29,
13 2022, did they not?

14 A Yes, they did.

15 Q What was that dog's name?

16 A Chloe.

17 Q What kind of dog was Chloe?

18 A German Shepard.

19 Q Was it -- do you know if it was a purebred German
20 Shepard or a mix of Malamois and German Shepoard, or do you
21 know?

22 A I have no idea.

23 Q Big dog.

24 A Yeah, a good sized dog, yes.

25 Q Seventy pounder?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-125

1 A I don't know its weight.

2 Q Not a little munchkin dog?

3 A No.

4 Q It was a full size German Shepard?

5 A It's a full size, yeah.

6 Q On the morning you described going into the house,
7 January 29th, 6:40 a.m. or so, you indicated that you burst
8 into the bedroom to wake your sister and Brian Albert; is
9 that right?

10 A Yes, I went into the bedroom.

11 Q It's still dark out, correct?

12 A Yes.

13 Q There had been relative chaos on the lawn for a number
14 of minutes from about 6:10 until at least 6:40, when you
15 went in, there was still emergency vehicles with lights on
16 and engines running and chaos, relative chaos, bedlam as
17 somebody has said, on that front lawn, correct?

18 A It was more on their side lawn and down the street,
19 kind of, like all the cruisers -- a lot of them were behind
20 there, yes.

21 Q Right in front of 34 Fairview, correct?

22 A To the side -- in the side yard of 34 Fairview, yes.

23 Q And on the lawn of 34 Fairview?

24 A Yes.

25 Q Where first responders were responding, correct?

1 A Yes.

2 Q And you said my client is screaming to the top of her
3 lungs; is that right?

4 A Yes, she was.

5 Q And Kerry Roberts was screaming back at her?

6 A Yes.

7 Q Shut up or shut the fuck up, right?

8 A Yes.

9 Q Yeah. Then at 6:40 a.m., under the cover of darkness,
10 you walked in the front door of the unlocked front door of
11 Brian Albert's house, correct?

12 A I went into my sister's house, correct.

13 Q It wasn't Brian Albert's house?

14 A And Brian Albert, yes, I'm sorry.

15 Q You then climbed the stairs up to the bedrooms,
16 correct?

17 A Yes.

18 Q You walked into the bedroom door where Brian Albert and
19 Nicole Albert, according to you, were sleeping; is that
20 right?

21 A Yes.

22 Q So you would agree that you unexpectedly, in terms of
23 their view, unexpectedly walked into their house, basically
24 in the middle of the night, middle of the morning?

25 A Yes.

1 Q You indicated that when you went through their bedroom
2 door, you sort of burst through, correct?

3 A I opened the door. I don't know if I used the word
4 burst.

5 Q You previously indicated that when you went through the
6 door it was chaotic because you were so amped up from the
7 events; is that right?

8 A I don't know if I used those words.

9 Q Would you say that you were loud or quiet?

10 A I think, as I explained earlier, I was like where
11 everything was going on around me, and I was kind of like
12 in a -- just a state of shock, and I remember thinking I
13 don't want to startle them but I have to wake them up
14 because obviously when I wake them up, they're going to be
15 panicked and think something terrible happened.

16 Q Why didn't you want to startle them? Something
17 terrible had happened.

18 A I didn't want give them a heart attack when I woke them
19 up.

20 Q But you didn't walk up and just nudge them, and say,
21 hey, Nicole, honey, can you wake up? There's something I
22 need to talk about. You didn't do that?

23 A No, I was like Brian, Brian, Nicole, wake up. Wake up.

24 Q Exactly. But you weren't saying in that voice, either.
25 You were saying Brian, Brian, Nicole, get up?

1 A I'm not sure if it was that loud, but I definitely was
2 trying to wake them up, yes.

3 Q What was the dog's reaction?

4 A I don't recall seeing the dog.

5 Q So according to you, to the dog at least, when you get
6 in the mind of a dog, a relative stranger walks in the
7 front door, climbs a set of stairs, the house is completely
8 dark, walks into a bedroom door, and starts barking -- the
9 person starts barking get up, wake up, Brian, Nicole. And
10 you don't remember seeing or hearing a dog at all?

11 MR. BRENNAN: Objection.

12 THE COURT: Sustained.

13 Q As you indicated, it's not that the dog wasn't
14 reactive, it's that you don't even remember the dog even
15 being there, correct?

16 A I have no memory of the dog, no.

17 Q But you do know that that dog sleeps in Brian and
18 Nicole's room, correct?

19 A It may. I don't know for sure.

20 Q The reason you don't remember the dog being there is
21 because the dog wasn't there, was it?

22 A I don't remember the dog.

23 Q Right. So when you walked out of the room, when you
24 walked in the house, you didn't see the dog?

25 A No.

Testimony of Jen McCabe

4/30/25

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1-129

1 Q When you walked up the stairs, no dog?

2 A No.

3 Q Walked down the hallway, no dog?

4 A No.

5 Q Walked into Brian and Nicole's bedroom door, no dog?

6 A I don't remember seeing the dog.

7 Q I realize that. Dog or no dog, no dog?

8 A I don't remember seeing the dog. IT doesn't mean it
9 wasn't there or was there. I just don't remember seeing
10 it.

11 Q Well, you didn't -- no dog came up to you and barked at
12 you, correct?

13 A No.

14 Q You didn't see or hear a dog whining or howling, did
15 you?

16 A No.

17 Q You didn't hear or see a dog's scratching at the door?

18 A No.

19 Q There was no sign of a dog at all in Brian and Nicole
20 Albert's house at 6:41 a.m. when you walked into that
21 house, correct, or 6:40, correct?

22 A I don't remember seeing the dog.

23 Q And this was a 70 pound German Shepherd, correct?

24 A I don't know the weight of the dog.

1 Q Have you ever heard the -- have you ever heard a
2 description given about that dog by Brian Albert or anybody
3 else that that dog was not good with strangers?

4 MR. BRENNAN: I object.

5 THE COURT: Sustained.

6 Q Did you know, as you said you're very, very dear
7 friends and obviously dear friends with Brian Albert and
8 relations with Nicole Albert, your sister, are you aware
9 that that dog was not good with strangers?

10 MR. BRENNAN: I object.

11 THE COURT: Do you know that?

12 A I don't. It wasn't good with other dogs is what I knew,
13 so I could never bring my dog over there. That's all I
14 know about the dog.

15 Q It had some aggression, correct, at least with other
16 dogs?

17 A Possibly.

18 MR. BRENNAN: Objection.

19 THE COURT: I'm going to allow it. Possibly with other
20 dogs was her answer. Next question.

21 MR. JACKSON: Thank you, Your Honor.

22 Q If you could remind the jurors, in your memory who was
23 the last person to leave the house at 34 Fairview on the
24 morning of -- the early morning hours of January 29?

25 A I believe Caitlin left after us, my niece.

1 Q Thank you. At some point, we've already talked a
2 little bit about this, you said you looked out the front
3 door glass? Was it a window or is the whole door glass?

4 A The whole door was glass I believe.

5 Q Is it like a -- and pardon my ignorance. Is there like
6 a wooden door that is open and there's a storm door that's
7 all glass that was closed. Is that what we're dealing
8 with?

9 A I believe so. Yes. Yeah, that sounds about right.

10 MR. JACKSON: May I have just a moment, Your Honor?

11 Q Can we take one more glance. I'm going to back up for a
12 quick second.

13 A Okay.

14 MR. JACKSON: Can we take a look at exhibit, Exhibit 3,
15 with the Court's permission?

16 THE COURT: Okay.

17 MR. JACKSON: And can you enhance that just a little
18 bit, please. Thank you so much.

19 May I approach?

20 THE COURT: Yes.

21 Q I forget to ask Her Honor. I apologize, Ms. McCabe.

22 A Thank you.

23 Q One more point of reference, can you please show the
24 jurors where Brian and Nicole Albert's bedroom window is in
25 that photograph?

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1 A Sure. It's right there.

2 Q Upper left window, upper most left window, correct?

3 A Yes.

4 Q Thank you.

5 MR. JACKSON: May I approach?

6 THE COURT: Yes.

7 Q Let me get back on track. You indicated you looked out
8 that storm door and saw Ms. Read's vehicle, her SUV,
9 directly in front of you, correct?

10 A Yes.

11 Q That was the first time you noted or clocked that SUV
12 being there?

13 A The first time -- I'm sorry?

14 Q The first time you noted the SUV, in other words that
15 you visually saw it, it was directly in front of you, it
16 was back by the mailbox, correct?

17 A Correct.

18 Q Did you still see the Jeep parked back by the mailbox?

19 A I looked out the window. I saw the car. I didn't
20 really pay attention to details of other cars. I just
21 looked and saw her car.

22 Q When you first looked out that window and saw or looked
23 out the door and saw the SUV, what time was that?

24 A I don't remember off the top of my head. I'm sorry.

25 Q Does the time 2:23 a.m. sound familiar?

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1-133

1 A 2:23?

2 Q I'm sorry, 12:23. My mistake.

3 A Again, I'm not sure.

4 Q When you looked out the door, did you see other
5 vehicles at that time other than the Jeep, other than Ms.
6 Read's SUV?

7 A I believe I saw lights -- oh, sorry. Lights like over
8 here (demonstrating) somewhere. If the Jeeps there and the
9 car, sorry, is there --

10 Q Can you describe for the record what you did? The
11 theres(ph) don't come across on the record.

12 A Oh, sorry.

13 Q So to your left --

14 A Yes.

15 Q -- is --

16 A Straight out would be Ms. Read's vehicle that I looked
17 at. I don't -- I kind of looked at that. I remember my
18 peripheral vision seeing lights over there (indicating) to
19 the left. Sorry.

20 Q So the way that you're describing this and that's
21 lights to a vehicle, correct?

22 A Yes.

23 Q As a matter fact, you know what vehicle that is?

24 A I do, yes.

1 Q What vehicle is it? Describe it for the jurors,
2 please.

3 A It's Ryan Nagel's.

4 Q Ryan Nagel's what, car, truck?

5 A I believe he has a truck.

6 Q Okay. So what you're describing is you looked out the
7 window, you saw Ms. Read's SUV directly in front of you.
8 Right behind that in line was Brian Higgins' Jeep and
9 behind that was Ryan Nagel's truck; is that right?

10 A I'm not sure where his truck lines up. I just remember
11 seeing lights. I just quickly went, saw Ms. Read's car and
12 went back into the room. I wasn't, I apologize, paying
13 attention for, like specific details about cars.

14 Q At some point you did become interested in exactly what
15 time Ryan Nagel's truck arrived, correct? This is after
16 the fact. Well after the fact. Months after the fact.

17 A Yes, I did.

18 Q As a matter of fact, you took it upon yourself to ask
19 Julie Nagel, Ryan's sister, to send you something, correct?

20 A Yes, I did.

21 Q What did you ask her to send you?

22 A I ran into the two of them and --

23 Q I didn't ask you who you ran into, just what did you
24 ask her to send you?

25 A Oh, okay. I'm sorry. A text message.

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1 Q A screen shot of a text message.

2 A Yes, a screenshot of a text message between Julie and
3 Ryan Nagel.

4 Q You knew at the time that Ms. Nagel very obviously was
5 a percipient witness in this case, correct?

6 A I believe so. It was very early on.

7 Q Well, I mean she was in the house, Ms. McCabe.

8 A Yes.

9 Q She was in the house when Ms. Read's vehicle appeared,
10 correct?

11 A Correct.

12 Q She was in the house when you were looking at the
13 vehicle?

14 A Correct.

15 Q She was in the house when everybody came home from the
16 -- came to 34 Fairview from the Waterfall BAr and Grille,
17 correct?

18 A Correct.

19 Q She was interacting with those in the house the very
20 time we're talking about it, right?

21 A Yes.

22 Q She went outside at some point to talk to her brother
23 outside the house right behind the SUV that you're
24 describing as Ms. Read's SUV, correct?

25 A Yes.

1 Q So you knew she was -- and you knew all this when you
2 asked her for that screenshot?

3 A I was trying to piece together the time --

4 Q You knew all of this when you asked for the screenshot?

5 A Yes.

6 Q You knew what her position was in this case, correct?

7 A She had no involvement. What happened outside is
8 different.

9 MR. BRENNAN: Objection.

10 THE COURT: Let her finish her answer. Go ahead, Ms.
11 McCabe, finish that answer.

12 A I didn't -- what happened outside was separate from
13 anything that happened inside.

14 Q I'm going to ask you again. You knew all of that
15 information that she -- Julie Nagel was a percipient
16 witness in this case as was everyone else inside of 34
17 Fairview when you asked for that screenshot, correct?

18 A Yes.

19 Q That is another example of you coordinating information
20 with other witnesses in this case, correct?

21 A No, that is not correct.

22 Q You were advised -- were you ever advised by Michael
23 Proctor not to coordinate information with other witnesses
24 in the case? Did he ever say don't do that?

25 A I don't recall.

1 Q So you don't recall or he didn't?

2 A I don't recall if he did or not.

3 Q Okay. If he did tell you not to coordinate with other
4 witnesses, this would be a breach of that agreement,
5 wouldn't it?

6 MR. BRENNAN: Objection.

7 THE COURT: Sustained.

8 Q Indeed, once you got that screenshot, we'll talk about
9 that in just a second, when you got the screenshot, did you
10 ever share that with law enforcement?

11 A I'm not sure if I did or not.

12 Q You never provided that to Michael Proctor or any other
13 investigator, did you?

14 A I'm not sure if I did or not.

15 Q As a matter of fact, Ms. McCabe, the only reason we
16 know about that screenshot is because of the extraction on
17 your phone, isn't that right?

18 A If that's how you know about it. I'm not sure.

19 Q You asked for that screenshot for your own personal
20 use, for your personal information, for your personal
21 coordination, correct, of what happened that night?

22 A That's -- what are you asking? There's three questions
23 there.

24 Q Did you ask for that screenshot for your own personal
25 use?

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1 A Yes.

2 Q And indeed, you do know what time it was that you
3 looked out and saw Ryan Nagel's truck because the
4 screenshot told you that, correct?

5 A The screenshot told me when Ryan Nagel pulled up. It
6 didn't tell when I saw.

7 Q And what was the time when Ryan Nagel indicated that he
8 pulled up?

9 A I'd have to look at the screenshot.

10 Q 2:23 a.m. -- 12:23 a.m. sound right?

11 A If you have it and that's what it says, absolutely.

12 MR. JACKSON: May I approach?

13 THE COURT: Yes.

14 MR. JACKSON: May I, Your Honor?

15 THE COURT: Okay.

16 Q Take a look at that transcript, that colloquy. Can you
17 read that to yourself the highlighted portion to yourself?

18 MR. BRENNAN: I'd like to be heard.

19 THE COURT: All right. Why don't counsel come to
20 sidebar.

21 (Sidebar commences:

22 MR. BRENNAN: Counsel has suggested that there's
23 information to support the question that there was a text
24 message that would evidence Ryan Nagel arriving at 12:23 at
25 Fairview, and since that was now offered to the jury under

1 question, we should see that screenshot to see if that in
2 fact is accurate.

3 MR. JACKSON: We don't have the screenshot.

4 THE COURT: She asked for the screenshot. She said if
5 you have the screenshot, then I'll believe you. I thought
6 this was a screenshot. What am I looking at?

7 MR. JACKSON: I think the screenshot was deleted from
8 Jen McCabe's phone. We know about it because of Julie
9 Nagel's testimony as well as --

10 THE COURT: Because of what?

11 MR. JACKSON: Julie Nagel's testimony as well as Jen
12 McCabe's testimony at the last trial. She adopted it and
13 agreed that's what she did and that's what the time of --

14 THE COURT: Is this the trial testimony?

15 MR. JACKSON: It is.

16 MR. BRENNAN: They've implied a certain time, and
17 they've implied there's a basis of fact separate from grand
18 jury testimony. The implication and the assertion to this
19 jury is that there is a screenshot that marks the time, and
20 that's central to the timeline and the data in this case.
21 And so if they're going to make that representation, they
22 have to be able to support it with an offer of proof,
23 whether they show it or not. So now I'm asking for that
24 offer of proof. That would be unfair to make a suggestion

1 substantively of information that is inaccurate, and so I'd
2 like to see the screenshot.

3 MR. JACKSON: It's not inaccurate. Mr. Brennan knows
4 well that it was deleted from her phone. We don't have the
5 screenshot. Neither does she and neither does Julie Nagel,
6 but they all have agreed that it's accurate. That's what
7 happened. I don't have to show a screenshot for her to
8 say, yeah, I took a screenshot.

9 THE COURT: So I'm going to mark this for
10 identification.

11 (Whereupon Exhibit G, was marked for identification.)

12 THE COURT: You can sure it to her and her if this
13 refreshes her recollection about anything.

14 MR. JACKSON: That's my intent.

15 MR. BRENNAN: Your Honor, I would just mention one last
16 time. When a question is asked that implies facts to the
17 jury, whether it is followed up with substantive proof, an
18 attorney needs to have that proof available.

19 MR. JACKSON: This is the proof.

20 THE COURT: I'm going to just let him ask whether that
21 refreshes her memory regarding anything. That's it. And
22 let's see where we go.

23 MR. JACKSON: Thank you.

24 end of sidebar.)

25 MR. JACKSON: May I?

1 THE COURT: Yes.

2 MR. JACKSON: Thank you. May I approach?

3 THE COURT: Yes.

4 Q Take a look at the highlighted portion and tell me if
5 that refreshes your recollection about anything that we
6 discussed?

7 A Could I? Is the page available --

8 Q I'm sorry. It's just a yes or no. Does that refresh
9 your recollection about anything that we've been
10 discussing?

11 A It's just what we discussed. It doesn't refresh.

12 THE COURT: Okay. So it does not refresh her memory.
13 Next question.

14 MR. JACKSON: I don't think that's what she said.

15 THE COURT: That's what you just said.

16 THE WITNESS: That was my answer.

17 THE COURT: That was her answer.

18 MR. JACKSON: That does not refresh her recollection?

19 MR. BRENNAN: Objection, Your Honor.

20 THE COURT: That was her answer. Next question, Mr.
21 Jackson.

22 MR. JACKSON: May I approach?

23 THE COURT: Yes.

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1 Q Take a look at the bottom of that page and tell me if
2 that refreshes your recollection about anything we were
3 just discussing.

4 A (Witness complies.)

5 MR. JACKSON: May I?

6 THE COURT: Yes.

7 Q Thank you. Ms. McCabe, having seen these does this
8 refresh your recollection about what we were just
9 discussing concerning that conversation?

10 A Regarding me asking Julie Nagel for the time?

11 Q Correct.

12 A Yes, it does.

13 Q Okay. And what time was that -- that was a screenshot
14 that you asked for, correct?

15 A Yes.

16 Q And that time was what?

17 MR. BRENNAN: Objection.

18 THE COURT: Do you remember the time?

19 THE WITNESS: I had the paper. I was reading
20 everything.

21 THE COURT: So the question is whether you remember the
22 time?

23 THE WITNESS: Oh, do I remember it. I don't remember
24 the exact time, I can read it off the paper. That's
25 different than a memory.

1 THE COURT: That's different. Next question.

2 Q So this does not refresh your recollection as to the
3 time that was reflected on that screenshot?

4 A I can read the time --

5 Q That's not my question. That's not my question.

6 A -- but I have no memory.

7 Q I have to do it this way, Ms. McCabe, so bear with me.

8 Does it refresh your recollection as you sit here
9 having read this as to the time that was reflected on that
10 screenshot?

11 A I don't -- sitting here today, the only reason I know
12 there's a time is because of what's on that paper.

13 Q But you did ask for a screenshot from Ms. Nagel,
14 correct?

15 A Yes, I did.

16 Q And that screenshot said something to the effect of
17 outside; is that right?

18 MR. BRENNAN: Objection. Withdrawn.

19 THE COURT: Just that question. The screenshot said
20 something about outside?

21 A I believe it said, here, yes.

22 Q Or --

23 A Something.

24 Q And it was a screenshot from Ryan Nagel to Julie Nagel
25 indicating that he had arrived?

1 A Can you repeat the question?

2 Q Sure. It was a screenshot of a text message from Ryan
3 Nagel to Julie Nagel saying, I've arrived?

4 A Yes.

5 Q In other words, I've arrived at 34 Fairview?

6 A Yes, it was.

7 Q Because he was intending to give her a ride home that
8 she had asked for; is that right?

9 MR. BRENNAN: Objection.

10 THE COURT: Sustained.

11 Q You did see Julie Nagel go outside and approach the
12 vehicle, correct?

13 A I never saw her go near the vehicle. I saw her go
14 outside.

15 Q Got it. Did she ultimately come back indoors?

16 A Yes.

17 Q Did she come back in with anyone else?

18 A No.

19 Q About what time would you estimate that to have been in
20 the course of that evening?

21 A When she came back inside?

22 Q When she walked out and came back inside.

23 A Soon after she went out, she talked to her brother, she
24 came back inside.

25 Q About what time of day was that, if you know?

1 A This was all happening while we were at my sister's
2 house.

3 Q Right. Was it 12:15, 12:30 12:45, 1 o'clock?

4 A Well, according to that paper --

5 MR. BRENNAN: Objection.

6 Q That's not what I'm asking.

7 THE COURT: Not according to the paper.

8 Q Do you have an independent recollection of about, not
9 down to the minute, about what time that was?

10 A I could say -- I'd have to be -- I wasn't looking at my
11 watch that night so it's very hard for me to give a time
12 just off of my memory. I've know what I've seen, but.

13 Q Okay. You did see both Ryan Nagel's truck and Ms.
14 Read's SUV in front of the house at the same time, correct?

15 A I saw his lights in my peripheral vision on the left.

16 Q But the lights are attached to what?

17 A The car. But it wasn't out front. Ms. Read's vehicle
18 was in front.

19 Q Right. When I say in front of 34 Fairview, we're going
20 to talk about the spacing in just a second. I just meant
21 out in front of the house.

22 A Yes, well, to the side, correct.

23 Q And you're indicating that -- and I want to be clear
24 about this, as you're looking out that storm door window,

1 going from right to left, it was Ms. Read's vehicle,
2 correct?

3 A Then Higgins's Jeep; is that right?

4 A His Jeep was in front of the mailbox.

5 Q Then behind that, was there a space and then Mr.
6 Nagel's truck, or was the truck right behind the Jeep?

7 A That's what I can't tell you. I just remember seeing
8 lights. I didn't look over and pay much attention to it.
9 I was just quickly looking at Ms. Read's car and I went
10 back and sat down.

11 Q Do you recall testifying at a prior hearing that it was
12 your perception was Ms. Read's car, her SUV, the Jeep, a
13 space, and then Mr. Nagel's truck from right to left?

14 A I remember Mr. Nagel's truck being over to the left in
15 my peripheral vision. I can't give you the exact location.

16 Q But there's no question in your mind as you sit here
17 that Brian Higgins's Jeep was between Ryan Nagel's truck
18 and Ms. Read's SUV. You remember that very clearly,
19 correct?

20 A I know that Ms. Read's vehicle was here (indicating)
21 and there lights in my peripheral vision over here.

22 Q Okay.

23 A I wasn't -- you know, I was just looking quickly.

24 Q So let me ask the question again. Assume that the
25 lights are attached to something, Ryan Nagel's truck, we've

1 already established that, what you're looking at when you
2 look out the storm door window is Ms. Read's truck her SUV,
3 rather, just behind that and to the left as you're looking
4 at is Mr. Higgins's Jeep, correct? And behind that is Mr.
5 Nagel's truck. You remember the Jeep being between the
6 truck and the SUV, correct?

7 A I remember looking out the window. It was dark. I
8 remember seeing lights over to left. That is what I
9 remember.

10 Q Where was the Jeep as it relates to the lights?

11 A I'm assuming the Jeep was still parked at the mailbox.

12 Q Well you saw it there. I mean, it's a 5,000 pound
13 Jeep, right?

14 A It was dark. I wasn't studying outside. It was a quick
15 thing I did. I looked, I saw it, and went back to the
16 table.

17 Q Okay. I'm asking for what the saw it part.

18 A Okay.

19 Q You looked and you saw Ryan Nagel's truck, then you saw
20 Higgins's Jeep, then you saw you Ms. Read's SUV, correct?

21 A I saw Ms. Read's SUV parked straight out front. In my
22 peripheral vision, I saw lights that, yes, must have been
23 attached to the truck, but I didn't study the lineup of
24 cars. I'm sorry.

25 Q And where was --

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1 MR. JACKSON: May I have one more question?

2 THE COURT: One more question.

3 Q Where was the Jeep? Was it in front of the SUV, behind
4 Mr. Nagel's truck, or was it between the two of them. It's
5 a simple question.

6 A You're asking what I saw when I looked outside.

7 Q Yeah, I am.

8 A And I'm telling you exactly what I saw. It was dark.
9 It was Karen's car there, and in my peripheral vision, I
10 saw lights and then I went back to the table.

11 THE COURT: Okay. That's the last question. We're
12 breaking now.

13 MR. JACKSON: Break for lunch?

14 THE COURT: All right. Jurors, we'll take our luncheon
15 recess.

16 (Jury out.)

17 (Court in recess at 1:00 p.m.)

18

19

20

21 (Court in session at 2:08 p.m.)

22 (Defendant is present with counsel.)

23 (Jury in.)

24 THE COURT: All right. Can we have Ms. McCabe back,
25 please?

1 MR. YANNETTI: Your Honor, while she's coming in, may
2 we approach sidebar briefly, please.

3 THE COURT: Okay.

4 THE COURT: I wish I had known this.

5 MR. YANNETTI: I wish I did, too. We just learned it
6 just now, which is there are two people, one of home has
7 taken Paul O'Keefe's seat. We believe that's Mr. and Mrs.
8 Galvin. When Mr. Jackson went into the Water -- I'm sorry
9 CJ McCarthy's, he was accosted by Mr. Galvin. Chris Albert
10 had seen them walk in, was on his phone, called them down
11 for the purpose of intimidating them. They made comments
12 such as, "What are you doing in Canton? Get the heck out
13 of here. Go back to LA," and then followed them out of CJ
14 McCarthy's. I would also point out that Mrs. Galvin is a
15 witness in this case now by virtue of the fact that Jen
16 McCabe has testified that she helped prepare the timeline.
17 And I would --

18 THE COURT: Okay. So she's a relative of Jen McCabe's?

19 MR. YANNETTI: Yes.

20 THE COURT: I have no idea what you're talking about.

21 MR. YANNETTI: And we have called who was kicked out of
22 the last trial because he assaulted my client, Ms. Read,
23 and, you know, we have text messages from Mr. Lally talking
24 about putting Brian Albert and Jen McCabe in with the

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1 O'Keefe's as gamesmanship that let the defense now try and
2 point --

3 THE COURT: I think that's a misrepresentation. I know
4 what Mr. Lally said. I'm not going to allow you to say
5 that. What are you asking me to do?

6 MR. YANNETTI: I'm asking you to object to both of them
7 at a minimum from the courtroom.

8 THE COURT: Both of whom? The Galvins?

9 MR. YANNETTI: The Galvins, yes.

10 THE COURT: Do you know anything about this?

11 MR. BRENNAN: This is brand-new. I can't even digest
12 as to understand what the concern is. I want to address
13 the concern, but this is all news to me. I don't even know
14 who they are.

15 THE COURT: I don't want to -- certainly, Mr. Jackson
16 is not afraid of them. Is he afraid of this woman?

17 MR. YANNETTI: Afraid of the woman?

18 THE COURT: Yeah.

19 MR. YANNETTI: I don't think he's physically afraid.

20 THE COURT: All right. So let's get through this.

21 We'll have a chance to give Mr. Brennan an opportunity to
22 think about it.

23 MR. YANNETTI: Sure.

24 THE COURT: Everybody is perfectly safe in this
25 courtroom. It's an open courtroom to the extent that it

1 is, and again, like I said this morning, this is the
2 courtroom that you chose, Mr. Yannetti, and this is what we
3 have. It's a very tight space.

4 MR. YANNETTI: Understood. I just don't want anybody
5 in this small courtroom intimidating our legal team.

6 THE COURT: There will be nobody -- Jerry.

7 (Mr. Jerry Fahey present.)

8 THE COURT: Can you assure me that nobody in this
9 courtroom will intimidate anybody in this courtroom while
10 we're here?

11 MR. FAHEY: Absolutely, Your Honor.

12 THE COURT: All right. So your title, please.

13 MR. FAHEY: Regional director.

14 THE COURT: All right. So we're all set. Thank you.

15 end of sidebar.)

16 THE COURT: All right. Sorry about the delay, jurors.
17 We were told that we blew a fuse and that's why we couldn't
18 get started on time, so these old courthouses. All right.
19 We appreciate your patience. Go ahead, Mr. Jackson.

20 MR. JACKSON: Thank you, Your Honor.

21 Q (By Mr. Jackson) Ms. McCabe, when you first saw Ms.
22 Read's SUV pull up very shortly thereafter, you sent a text
23 to John O'Keefe, correct?

24 A I walked to the door, saw the car, and that's when I
25 sent the text, yes.

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1 Q Right. So you walked up to the door, saw the SUV
2 outside, and then texted him something at that -- basically
3 while you were standing in the door?

4 A I believe so, yes.

5 Q What did you text him?

6 A Here.

7 Q Okay. That was -- do you remember the time?

8 A I don't know.

9 Q Would it refresh your recollection if you were to look
10 at a series of text messages contained in a Cellebrite
11 report? I think you've seen this before.

12 A Sure.

13 MR. JACKSON: May I approach, Your Honor?

14 THE COURT: Yes.

15 Q Let me ask one foundational question before I give this
16 to the witness.

17 THE COURT: Okay.

18 Q Ms. McCabe, I'm going to ask you about a series of text
19 messages. It's not a memory contest in terms of the
20 timing. I'm going to ask you about probably five or so.
21 All of those purport to be contained in here. Do you
22 remember the times of those five texts?

23 A I don't off the top of my head.

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1 Q Do you think it would refresh your recollection to look
2 at all of those in one fell swoop as you look at this
3 document so I don't have to go back and forth?

4 THE COURT: Are these in evidence?

5 MR. JACKSON: This is not in evidence to my knowledge.
6 Not yet.

7 THE COURT: Would it help you to remember?

8 THE WITNESS: Yes.

9 THE COURT: All right. Why don't you bring it to Ms.
10 McCabe.

11 A Thank you.

12 Q Thank you.

13 Ms. McCabe, if you wouldn't mind, take a look at the
14 tabs -- not that whole document - it's too dense. Take a
15 look at the tabs and go in reverse chronological order and
16 see if that refreshes your recollection about the time and
17 content of text messages that you sent to Mr. O'Keefe that
18 early morning of January 29?

19 A Okay. Yes.

20 MR. JACKSON: May I approach?

21 THE COURT: Yes.

22 MR. JACKSON: Thank you.

23 A I'm not going to have to remember the exact times of
24 all five, am I?

25 Q I'll help.

1 A Okay. Thank you.

2 Q Ms. McCabe, did you see a text on here that was
3 consistent with your memory that you texted Karen?

4 A Yes.

5 Q And was that at 12:14 -- I'm sorry at 12:27 a.m.?

6 A I don't know exactly. I'm assuming if it's on that
7 paper.

8 MR. JACKSON: If I may have just a moment, Your Honor?

9 THE COURT: Sure. Why don't I see counsel at sidebar
10 for just a moment?

11 Why don't you bring it with you, Mr. Jackson? Bring it
12 with you. Bring it with you.

13 (Sidebar commences:

14 MR. BRENNAN: I will stipulate to the times if read
15 correctly on that report even if she doesn't have a memory.
16 If he wants to use the times in the report, it's in
17 evidence in a different form, anyways.

18 THE COURT: I thought it was in through -- it was
19 testified with Guarino.

20 MR. BRENNAN: It is. It's just a different form of
21 report, but it's the same information.

22 THE COURT: So it's in evidence.

23 MR. BRENNAN: It's in evidence.

24 THE COURT: That's why I asked.

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1 MR. JACKSON: The information is in evidence, not this
2 document.

3 MR. ALESSI: It's buried in a report but it is in --

4 MR. JACKSON: And I'll accept that stipulation.

5 MR. BRENNAN: So if he wants to ask --

6 THE COURT: Because she's never going to remember three
7 years later.

8 MR. JACKSON: Understand.

9 MR. BRENNAN: I'll stipulate as to the times if he
10 reads the times.

11 THE COURT: Thank you. Just move things along. I
12 appreciate it.

13 MR. JACKSON: Thank you.

14 MR. ALESSI: Thank you, Mr. Brennan.

15 end of sidebar.)

16 THE COURT: Ms. McCabe, we're going to make it a little
17 bit easier for you, okay?

18 THE WITNESS: Thank you.

19 MR. BRENNAN: May I?

20 THE COURT: Yes.

21 MR. JACKSON: Your Honor, I would offer the following
22 stipulation:

23 At 12:14:27 on January 29, 2022, a text message from
24 Jen McCabe to -- I'm sorry text message from John O'Keefe's
25 phone to Jen McCabe's phone, "Where to?"

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1-156

1 At 1220 -- all of these are on January 29, 2022. At
2 12:27:33, from Jennifer McCabe's phone to John O'Keefe's
3 phone, "Here exclamation point question mark."

4 Same date, 12:31 and 47 seconds, from Jen McCabe's
5 phone to John O'Keefe's phone, "Pull behind me."

6 Same date, 12:40 and 31 seconds, from Jen McCabe's
7 phone to John's -- John O'Keefe's phone, "Hello."

8 12:42 and nine seconds, text message from Jennifer
9 McCabe's phone to John O'Keefe's phone. "Where are the
10 letter U."

11 THE COURT: Okay. Thank you.

12 MR. JACKSON: Finally, 12:45 and 53 seconds, from Jen
13 McCabe's phone to John O'Keefe's phone, "Hello."

14 I would offer the stipulation that those are correct
15 times and dates and contents of text messages between John
16 O'Keefe's phone and Jennifer McCabe's phone on January 29,
17 2022.

18 THE COURT: All right. And that is what you were
19 agreeing to, Mr. Brennan.

20 MR. BRENNAN: Yes, Your Honor, as contained in the
21 Cellebrite report.

22 THE COURT: All right, folks. So I told you yesterday
23 about a stipulation, when I talked about something in the
24 parking lot, this is similar. So what you just heard, both

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1-157

1 lawyers agree that that is information contained in a
2 Cellebrite report.

3 MR. JACKSON: Thank you, Your Honor. May I continue?

4 THE COURT: Yes.

5 Q At some point, you indicated that -- and by the way,
6 Ms. McCabe, at 12:27, it's now been stipulated to, you
7 texted a single word "Here exclamation point question
8 mark," correct?

9 A Yes.

10 Q You indicate that you saw the SUV move up after it was
11 in front of the 34 Fairview residence, it moved up some
12 number of feet, correct?

13 A The next time I looked, it was at a different location.

14 Q Right. Now, you did not see the white Jeep move from
15 the place that you originally saw it in front of the
16 mailbox, correct?

17 A I never looked out at the white Jeep.

18 Q But you never saw that move ever?

19 A No.

20 Q As a matter fact, Mr. Higgins -- that Jeep was in the
21 same spot while Mr. Higgins was inside the residence until
22 he left, correct?

23 A That's what I would assume, yes.

24 Q Okay. And you never saw him go out and move his car,
25 come back in, or anything like that?

1 A I never did, no.

2 Q After you -- it's fair to say that once you noted that
3 the SUV, Ms. Read's SUV was in front of the location, you
4 started paying some attention to it?

5 A I went to the door a few times to lookout, yes.

6 Q As a matter of fact in the course of about 19 minutes,
7 you went to the door no fewer than five times, correct?

8 A I'm not sure if it was five.

9 Q You've indicated previously that for every time you
10 went to the door and saw the SUV, you texted something
11 which are the texts contained in the documents that were
12 just stipulated to; is that right?

13 A I did text five times; you are correct.

14 Q Okay. So it's fair to say if you texted five times,
15 then you went to the door five times, if those were
16 associated with one another, you walk up, look out the
17 door, see the SUV, and text something: Here. Pull behind
18 me. Where are you? Those texts, correct?

19 A I remember going to the front door, seeing the car, and
20 texting "Here."

21 When I went to the door the second time, the car had
22 moved up towards the flagpole, and I texted, "Pull behind
23 me," because I thought did they not know where to park.
24 Did they think they were at the wrong house?

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1-159

1 Q So my question is this, every time you went to the door
2 you texted something?

3 A I'm not sure that I did, yes. I'm not sure that I did,
4 sorry.

5 Q Do you remember a year ago testifying that every single
6 time you texted, you indicated that you looked out at the
7 SUV and saw something that prompted you to text something?

8 A Am I aware that I said that?

9 Q Correct.

10 A Could you --

11 Q That you testified to that.

12 A Could you show that to me, please?

13 Q Sure.

14 A Thank you.

15 MR. JACKSON: May I, Your Honor?

16 THE COURT: Yes.

17 Q Take a look at the highlighted portion and just read
18 that to yourself. Let me know you when you're finished.

19 A (Witness complies.) Okay.

20 MR. JACKSON: May I?

21 THE COURT: Yes.

22 Q Ms. McCabe, does that refresh your recollection about
23 the issue we were just talking about?

24 A I see what's on -- what's written down, yes.

1 Q Okay. Did you testify in answers to the following
2 question: "And as a matter fact, you looked every single
3 time that you texted, you indicated that you looked out at
4 the SUV and saw something that prompted you to text
5 something, correct?"

6 Answer, "Correct."

7 A I answered correct to that, yes.

8 Q All right. So if you looked out -- I'm sorry. If you
9 texted five times, that's all I'm getting to, you went to
10 the door about five times?

11 A I'm not sure. I remember definitely going twice. And
12 again, if I misstated or I said I went five times, four
13 times, I apologize.

14 Q Do you think this testimony is an error?

15 A No, I don't think. I'm thinking with my memory, it was
16 three years ago, and I'm thinking that maybe I wasn't clear
17 on that detail of how many times that I went to the door.

18 Q And certainly --

19 A What I can tell you I'm clear on is that I did go
20 twice, and I saw it -- I saw it straight ahead, I saw it at
21 the flagpole, and a third time further up. I cannot say
22 with certainty with my memory today that I was up at that
23 door every single time. I'm sorry.

24 Q And by the way, when you testified as you just saw,
25 that was a year ago, correct?

1 A Yes.

2 Q A year earlier and a year closer to the event, correct?

3 A Yes, it was.

4 Q Your memory would have been a little bit fresher then
5 than it is now, a year later?

6 A I don't think I can compare my memory then to now.

7 Q You can't compare your memory? You think your memory
8 gets better with time, or --

9 A Well, some things, unfortunately, I think about every
10 single day with this case, the trauma of it, and what I
11 experienced and went through. And there are some things
12 that I am certain that I will never forget, and I know for
13 sure where the car was, and I know for sure I sent those
14 two texts, but I apologize if I misstated I went up more
15 than I did. I'm just trying to give you what I remember
16 today.

17 Q Let's talk about those texts, and you looking out the
18 door.

19 You did approach the door and you saw that the vehicle
20 was there the initial time, correct? That's one.

21 A When I texted here, yes.

22 Q And you texted, here, exclamation point, question mark;
23 is that right?

24 A Correct.

1 Q And you indicated that when you first saw the vehicle
2 it was straight out of head view in front of the door and
3 it was stationary; is that right?

4 A Yes.

5 Q I think you said you went back to the door and you saw
6 that it had moved up or a little bit; isn't that right?

7 A Yes.

8 Q Toward the flagpole; is that right?

9 A It was at the flagpole, yes.

10 Q And when you saw that it had moved up toward the
11 flagpole, then you texted again at 12:40, which has been
12 stipulated to, hello; is that right?

13 A When I saw it move up to the flagpole, I believe I
14 texted, "Pull behind me."

15 Q And with the second time -- and by the way, it was my
16 mistake. I jumped over one. It was 12:31:47, which we
17 stipulated to, "Pull behind me." That's when the SUV was
18 up closer to the flagpole, correct?

19 A I believe so, yes.

20 Q Then you went yet again at 12:40 and saw the SUV yet
21 again and texted, "Hello."

22 A I'm not sure if that was when I texted hello.

23 Q But you did see that the SUV had moved again?

24 A Yes.

25 Q Now where was it?

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1 A At first, it was straight ahead. Then it was at the
2 flagpole, and then it was further up.

3 Q Then at 12:42, two minutes later, you texted, "Where
4 are you," correct?

5 A Yes.

6 Q At that point, it was still out by the flagpole?

7 A No, I'm not saying that it was still outside.

8 Q Where was it?

9 A I'm not sure where the vehicle was.

10 Q At 12:45, you texted yet again, "Hello," is that right?

11 A Yes, I did.

12 Q You indicated that that was -- you texted hello the
13 last you saw the vehicle; is that right?

14 A I'm not saying that today, no.

15 Q Well, did you say it previously?

16 A In my testimony, did I say that the last time I texted?
17 Do you have that written that I could see?

18 Q You just read it.

19 A Well, that was your question that you had read to me.
20 I never came out and said that.

21 Q Ms. McCabe, I asked you if you testified to that a year
22 ago. That's my question. Did you testify to that a year
23 ago that when you went -- every single time you went to the
24 door, you texted something because seeing the vehicle
25 prompted you to text something to John?

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1-164

1 A That's a summary of maybe the --

2 Q Did you testify to that a year ago?

3 A To what? That when I went to the door? Yeah, at
4 different times when I went to the door, I did text, yes.

5 Q All right. And then you testified as well that you went
6 to the door a final time, and saw that the SUV was gone, it
7 had left, correct?

8 A Yes, at one point I did.

9 Q That was just a couple of minutes after your last text
10 at 12:45; is that right?

11 A I'm not sure of the time.

12 Q As a matter of fact, you've testified previously that
13 it was around 12:50 that you first -- I'm sorry -- that you
14 last went to the door and noted that the car was completely
15 gone; is that right?

16 A I'm not sure of that.

17 Q You're not sure of that?

18 A No, if you could show me, I'd appreciate it.

19 Q At some point, did you note that the vehicle was gone?
20 Let's get to that.

21 A Yes.

22 Q Around what time was that?

23 A I do not know.

24 Q 12:45, a little bit before, a little after?

25 A I'm not sure. I can't give a time.

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1-165

1 Q Would it refresh your recollection as to when you
2 testified to that particular time last year?

3 A Sure.

4 MR. JACKSON: May I?

5 THE COURT: Yes.

6 Q The highlighted portions, Ms. McCabe.

7 A Thank you (reading).

8 MR. JACKSON: May I?

9 THE COURT: Yes.

10 Q Ms. McCabe, does that refresh your recollection as to
11 what time last year you indicated that you went to the door
12 and saw that the SUV was gone?

13 A It says on the paper that I was asked if after 12:45 it
14 was gone, and I answered correct.

15 Q Okay.

16 A I never gave a time.

17 Q All right. And that coincides with the last hello that
18 you texted to John's phone, correct?

19 A Again, I don't have that paper in front of me. Is that
20 the time?

21 Q That's the stipulation. That's what -- you don't need
22 to worry about that.

23 A Okay.

24 Q That's been stipulated to you. Your last hello text
25 was at 12:45.

1 A Okay, yes.

2 Q So that coincides, that testimony from last year,
3 coincides with your last text message saying "hello" you
4 noted that the SUV at that point had gone, it had left,
5 correct?

6 A Correct.

7 Q So if I hear your testimony correctly, you saw the SUV
8 in position one?

9 A Yes.

10 Q There was a text or something or two maybe. Then you
11 saw it in position two. You went back to the door and
12 noted that SUV had moved, and it was now closer to the
13 flagpole, correct?

14 A Well, you've just ask two questions.

15 Q It had moved closer to the flagpole.

16 A The first question is you said I saw it and I sent a
17 text or two. I know I just said one here.

18 Q Okay. Then you saw it a second time?

19 A Correct.

20 Q And now it's closer to the flagpole?

21 A Yes, correct.

22 Q And there's texting going on. I'm not getting down to
23 the minute of the texts, but there's going on. You're
24 sending texts?

25 A I'm sending, yes.

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1-167

1 Q Then you went back to the door third time and saw that
2 it had moved beyond the flagpole, correct?

3 A Correct.

4 Q Then, according to your testimony last year, you went
5 back to the door at least a fourth time to see that was
6 gone, correct? A I believe so, yes.

7 Q Okay. So at bare minimum based on your testimony
8 today, you were at the door, looking out the window, at
9 that portion of either the yard directly in front of you,
10 in front of the house, or toward the flagpole, or beyond
11 the flagpole four times, correct?

12 A From last year's testimony. But what I remember today
13 with certainty is twice.

14 Q That's not what I asked.

15 THE COURT: You need to let her answer the question.
16 Answer your question, please.

17 Q Go ahead.

18 THE WITNESS: Okay.

19 A What I remember with certainty is looking at it out
20 front, at the flagpole, and beyond. I don't remember how
21 many times I went up to the door. I was back and forth.

22 Q Right. But according to you, you saw the car in three
23 different positions, correct?

24 A Correct.

25 Q So that's at least three times to the door, correct?

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1-168

1 A Correct.

2 Q And you saw the car gone, right?

3 A Correct.

4 Q Three plus one is four, correct?

5 A Correct.

6 Q So now you're telling us that you went to the door a
7 minimum of four times and looked across that yard at the
8 SUV, correct?

9 A Correct.

10 Q Okay. You had a clear view of that SUV as you looked
11 out the storm door every time you went to the door, didn't
12 you?

13 A It was dark and snowing, but I could see a vehicle out
14 there, yes.

15 Q As a matter of fact, you've indicated that there was a
16 clear view, there was nothing obstructing your vision,
17 correct?

18 A No, there was nothing but the weather conditions.

19 Q And you indicated that -- and by the way, the blizzard
20 had basically just started. There was a dusting on the
21 ground.

22 A It was snowing. It was accumulating.

23 Q Right.

24 A Yeah.

25 Q But it was early?

1 A Correct.

2 Q Early in the storm?

3 A Oh, yes, absolutely.

4 Q Right. And when asked about whether or not you had a
5 view -- well, let me ask it a different way.

6 In terms of your view of the SUV and the distance from
7 the storm door to the SUV to that curb line, there was
8 nothing obstructing your view? You had a clear view of
9 that, a good view of the SUV, correct?

10 A When I looked out the window, I could see the SUV in
11 front of me, yes.

12 Q At no time during any of this interaction with the
13 door, meaning going back-and-forth through the storm door,
14 texting, looking outside, seeing the SUV in position one,
15 seeing the SUV in position two, seeing the SUV in position
16 three, at no time did you hear anything that -- any noise
17 that was unusual, did you?

18 A No, I didn't.

19 Q You didn't hear any screaming?

20 A No.

21 Q You didn't hear any yelling?

22 A No.

23 Q No loud voices?

24 A No.

25 Q No foul language?

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1 A No.

2 Q You didn't hear a door slam?

3 A No.

4 Q You didn't hear a verbal argument or a fight of any
5 kind?

6 A No.

7 Q You didn't hear a revving engine?

8 A No.

9 Q You didn't hear the squealing tires or the scraping of
10 tires on pavement?

11 A No.

12 Q You didn't hear a collision take place?

13 A No.

14 Q Or a crash?

15 A No.

16 Q Or screams for help?

17 A No.

18 Q Moaning, groaning as if someone was in distress?

19 A No.

20 Q As you looked at the SUV, the first time, you already
21 indicated that you had a clear view straight out the door,
22 right, it's right in front of the front door as the crow
23 flies, right? It's not at an angle.

24 A Right there, correct.

1 Q You also previously indicated that you saw tire tracks
2 in the roadway?

3 A Yes.

4 Q In that very, very light dusting of snow, the
5 accumulation that you talked about, you saw tire tracks of
6 some sort?

7 A Yes.

8 Q So that's down on the ground, beyond the yard,
9 somewhere in the roadway?

10 A In the street, correct.

11 Q You had a good view of those tire tracks as well,
12 correct?

13 A Yes.

14 Q As a matter of fact, you were able to describe those as
15 sort of almost a wave I think you once said?

16 A Yeah, across the street I could see it because of the
17 streetlight that was across the street.

18 Q Okay. And that presented at least enough illumination
19 based on your view, you could see the tire tracks in the
20 snow?

21 A Yes, over to left, yes.

22 Q And you detailed not just the shape of those tire
23 tracks as being sort of like a wave, but where those tire
24 tracks were, correct?

25 A Yes.

1 Q Where did you see them?

2 A I believe over to the left if I'm looking out straight.

3 Q So if you're looking outside at the SUV -- I'm just
4 going to turn my back to the jurors for a second for a
5 different perspective.

6 If you're looking outside the door, when you say
7 straight out, the SUV is straight outside, when you say to
8 the left, you mean to the left of the SUV on the ground,
9 that's where you saw the tire tracks?

10 A Yes.

11 Q Like somebody might parallel park or something?

12 A Kind of wave, yeah. I can't really explain what it was.
13 I just saw it.

14 Q You weren't paying special attention, you weren't
15 looking for tire tracks, were you?

16 A No, when I glanced out, I saw it.

17 Q You weren't looking for anything in the roadway at that
18 point. You glanced out. There was something in your
19 peripheral vision and made note of it?

20 A Yes.

21 Q And the only thing between you and the SUV as you
22 looked out was the lawn?

23 A Correct.

24 Q There's no ditches or hills in that lawn. It's a flat
25 lawn, correct?

1 A I wasn't looking at the ground. I was just kind of
2 like looking like I am at you right now - straight.

3 Q You know that lawn. You've been to that house 100
4 times, 500 times. No ditches or berms or hills or
5 mountains on that lawn. It's just a flat lawn, right?

6 A I guess you could characterize it as flat, yeah.

7 Q Can we take a look --

8 MR. JACKSON: May I approach, Your Honor?

9 THE COURT: Yes.

10 Q Can you take a look at that photograph --

11 A Sure.

12 Q -- photograph for a quick second and tell me if you
13 recognize it?

14 A I do, yes.

15 Q What do you recognize that as being?

16 A 34 Fairview.

17 Q That's the same photograph with just a little markation
18 that you saw a few minutes ago?

19 A Yes.

20 MR. JACKSON: Your Honor, I would ask that that be
21 marked as identification next in order.

22 THE COURT: Okay.

23 MR. JACKSON: Permission to publish?

24 THE COURT: Not for identification, no.

25 MR. JACKSON: I'm happy to move it into evidence.

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1 MR. BRENNAN: Your Honor, if I may, if it's marked for
2 identification, I wouldn't object to showing it --

3 THE COURT: Okay.

4 MR. BRENNAN: As a chalk at this point.

5 THE COURT: Okay.

6 MR. JACKSON: May I publish?

7 THE COURT: Yes.

8 MR. JACKSON: Thank you.

9 (Whereupon Exhibit H, Photograph, was marked for
10 identification.)

11 MR. JACKSON: May I approach?

12 THE COURT: Yes.

13 A Thank you.

14 Q Here you go.

15 MR. JACKSON: Mr. Wolk, can you get the video. Thank
16 you.

17 Q What's depicted in that photograph?

18 A 34 Fairview.

19 Q Do you see the front door that you went in?

20 A I do, yes.

21 Q Can you point it out to the jurors, please?

22 A Sure. Right there.

23 Q The one with the brick steps leading up to it?

24 A Yes.

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1 Q Now with this perspective, can you point out the side
2 door?

3 A Sure.

4 Q That looks like a screen door just to the right of the
5 hedges?

6 A Yes.

7 Q With that perspective, can you point out the garage
8 door?

9 A (Witness complies) or that one, sorry.

10 Q Just to the right of the window inside that recess of
11 the home?

12 A Yes.

13 Q And does that fairly and accurately depict the lawn as
14 it was on January 28, 29, other than the fact that it's
15 different weather --

16 A Right.

17 Q -- the shape of the lawn?

18 A Yes.

19 Q Okay. Thank you.

20 MR. JACKSON: You can take that down, Mr. Wolk.

21 THE COURT: So what was that marked as, Madam Court
22 Reporter?

23 THE COURT REPORTER: Exhibit H for identification.

24 THE COURT: Thank you.

1 MR. JACKSON: Your Honor, I would ask to move that in
2 evidence. If we need to take a minute on that, I'm happy
3 to but that is my request.

4 THE COURT: Is there an issue?

5 MR. BRENNAN: No, I won't object.

6 (Whereupon Exhibit No. 46, Photograph (Formerly H), was
7 marked as an exhibit.)

8 MR. JACKSON: Thank you, Your Honor.

9 May I continue, Your Honor?

10 THE COURT: Yes.

11 Q The first time you looked out on that lawn to the SUV,
12 you did not see John O'Keefe, did you?

13 A No, I did not.

14 Q He was not outside that SUV?

15 A No.

16 Q He was not standing or sitting?

17 A Not that I saw.

18 Q He certainly wasn't on the ground, was he?

19 A Not that I saw.

20 Q The second time you looked out and saw the SUV, now the
21 SUV is more toward the flagpole, correct?

22 A Yes.

23 Q And you had a clear field of view between you standing
24 at that door and the SUV. You've already described that
25 view, correct?

1 A I can see the SUV, correct.

2 Q And you could see everything in front of the SUV as
3 well, couldn't you?

4 A I just would go to the door and look at the SUV. I
5 wasn't taking in all the surroundings of --

6 Q Right. But just like you weren't taking in the
7 surroundings specifically looking for tire tracks when you
8 saw the SUV standing -- sitting right in front of you, you
9 saw through through your peripheral vision, you noted tire
10 tracks?

11 A Yes, and that's lighted where around the SUV was very
12 dark.

13 Q I didn't ask you about lighting yet. We'll get to
14 that.

15 A I'm sorry.

16 Q You were looking for tire tracks, even though you
17 weren't looking for tire tracks, right?

18 A Yes, I did.

19 Q That was something that stood out to you in your
20 peripheral vision looking out, there they are, correct?

21 A Yes, absolutely.

22 Q That second time you looked directly at the SUV, there
23 was no obstruction between you and the SUV, you did not see
24 John O'Keefe standing outside the SUV?

25 A No.

1 Q He wasn't sitting down?

2 A No.

3 Q He wasn't lying down?

4 A No.

5 Q You certainly did not see his body in the snow with
6 that flagpole?

7 A No.

8 Q And you would've been looking directly toward that
9 flagpole, correct?

10 A I was looking at the vehicle.

11 Q Directly toward the flagpole, Ms. McCabe?

12 A I was looking in the direction of the flagpole --

13 Q Right.

14 A -- at the vehicle, yes.

15 Q Right. And you saw no body in the snow, did you?

16 A I didn't look for a body in the snow.

17 Q I didn't ask if you looked for one. You weren't
18 looking for tire tracks, either, were you? You saw those.

19 A I did see those, yes.

20 Q And you did not see a body in the snow?

21 A No, I did not.

22 Q John O'Keefe is 6-foot-2, 216 pounds, brawny guy, big
23 boy, right?

24 A I don't think I'd refer to him as a big boy, but he was
25 tall, yes.

1 Q All right. You certainly didn't see him prostrate in
2 the snow the way you found him the next morning, correct,
3 later that
4 morning.

5 A I didn't see anything on the ground, no.

6 Q Correct. The third time you looked out toward that SUV,
7 it's still in the direction of the flagpole, but a little
8 further up, a little deeper to the right, correct?

9 A Yes.

10 Q Again, looking directly in the direction at least of
11 the flagpole and that area of the yard, you were looking
12 beyond that to the SUV, correct?

13 A Yes.

14 Q You did not see John O'Keefe standing outside the
15 vehicle?

16 A I did not, no.

17 Q He was not sitting outside the vehicle?

18 A No.

19 Q He certainly wasn't lying on the ground, was he?

20 A I didn't see him.

21 Q And the last time you looked out, Ms. McCabe, this is
22 now 12:45 or so, the last time you looked out, the SUV was
23 gone; is that right?

24 A Yes.

1 Q But you were still looking in that direction because
2 that's the last place you saw the SUV; is that right?

3 A I looked out the window like this (demonstrating). I
4 wasn't searching anywhere, but just glanced out the window,
5 and I didn't see it.

6 Q Ms. McCabe, I'm just asking you a direction, not
7 whether or not you were searching. I know you didn't send
8 out a search party. That's not my question. My question
9 is, were you looking toward the area where you last saw the
10 SUV around 12:45 a.m.?

11 A Yes.

12 Q That would be directly across the lawn, directly past
13 the flagpole, and directly into the street where you last
14 saw the SUV, correct?

15 A I glanced out, yes, correct.

16 Q And the same way you glanced out at the SUV, to use
17 your words, glanced out and saw the tire tracks, right?

18 A Correct, yes.

19 Q But you did not see John O'Keefe standing on the lawn?

20 A No.

21 Q You did not see him sitting of the lawn?

22 A No.

23 Q And you certainly did not see his body lying on the
24 lawn, did you?

25 A No, I did not.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-181

1 Q Ultimately, you left the location that night the
2 gathering at 34 Fairview, is that right, you didn't spend
3 the night there?

4 A No, I went home.

5 Q About what time was it that you left the location?

6 A Approximately, it was after 1:30. Approximately 1:30,
7 1:45. Q So this is maybe an hour later, later than what
8 we've just been discussing?

9 A Yes.

10 Q Who did you leave with?

11 A I left with my husband Matt and Julie Nagel and Sarah
12 Levinson.

13 Q Who was driving?

14 A Sorry. My husband Matt was driving.

15 Q And where was Sarah Levinson and Julie Nagel sitting in
16 that SUV?

17 A They were in the backseat.

18 Q By the way, what kind of SUV were you in that night?

19 A A Yukon.

20 Q Four door?

21 A Big -- yeah --

22 Q Extended seating?

23 A Yes.

24 Q When the SUV pulled out of the driveway -- it was in
25 the driveway?

1 A Yes.

2 Q When the SUV backed out of the driveway doing a three
3 point turn, backed out the driveway, did it go toward
4 Chapman or did it go toward Cedarcrest?

5 A It went towards Chapman.

6 Q So as you backed out of the driveway, you would have
7 been heading up toward the flagpole side of the property
8 rather than back toward the driveway side of the property,
9 correct?

10 A Correct.

11 Q You would have driven directly adjacent to the area
12 where John O'Keefe's body was later discovered at 6:04,
13 6:03 a.m., correct?

14 A Yes, correct.

15 Q You were seated in the passenger seat of the vehicle,
16 not the driver's seat?

17 A Correct.

18 Q You were seated in the front of the vehicle, not the
19 backseat?

20 A Correct.

21 Q You would have been closest to the yard as you all
22 drove past, correct?

23 A Correct.

24 Q That's a newer model Yukon. I'm assuming the headlights
25 automatically turn on at night?

1 A Yes.

2 Q The headlights were illuminated?

3 A Yes.

4 Q Did your husband Matt, did he turn on the brights, or
5 did he leave the beams on low, or do you know?

6 A I don't know.

7 Q But certainly, the area in front of that SUV, that
8 Yukon, was well lit?

9 A The lights were on, yes.

10 Q Did not see anything out of the ordinary as you drove
11 right by that location, did you?

12 A I was looking at the backseat when we were driving.

13 Q Did you see anything out of the ordinary on that lawn
14 as you drove by in that SUV?

15 A No, because I wasn't looking at the lawn.

16 Q You certainly did not see John O'Keefe dressed in dark
17 clothing laying prostrate in the lawn?

18 A No, I did not.

19 Q You said that you were turned around talking to the
20 other young ladies in the SUV, Julie Nagel and Sarah
21 Levinson; is that right?

22 A Yes.

23 Q You indicated that you were engaged with them about a
24 conversation having to do with bread and maybe peanut
25 butter or something?

1 A Yes.

2 Q You didn't as you passed by that location adjacent to
3 where John's body was later discovered, you didn't hear
4 Julie Nagel say anything out of the ordinary about having
5 seen something?

6 A No.

7 Q You didn't hear Sarah Levinson say anything out of the
8 ordinary about having seen something?

9 A No.

10 Q And according to you, you were turned around directly
11 engaged with both these young ladies as you passed by that
12 area where John's body was later discovered; is that right?

13 A When we pulled out, I turn around, and I was talking to
14 them about the bread and the peanut butter. I'm not sure
15 exactly where we were driving, but it was when we pulled,
16 yes.

17 Q You certainly never heard anybody say anything like
18 what was that or anything close to that?

19 A No, I didn't.

20 Q I'd like to turn your attention to your arrival back at
21 34 Fairview just after 6:00 a.m. the next morning.

22 You indicated that the visibility was relatively poor,
23 and that you could not see John O'Keefe on that lawn from
24 your perspective, correct?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-185

1 A It was -- the visibility was extremely poor, and, no, I
2 could not see him.

3 Q You were in the front seat passenger side?

4 A Yes, I was.

5 Q It was Karen Read who actually saw Mr. O'Keefe and
6 jumped out of the car, and began attending to him
7 immediately, correct?

8 A Karen got out of the car and ran to John O'Keefe.

9 Q And you stayed by the car, and Ms. Roberts ran over to
10 assist Ms. Read in giving first-aid initially to Mr.
11 O'Keefe; is that right?

12 A No, that is not. Kerry got out and walked over, and
13 then I got out and walked over.

14 Q You indicated that -- well, let me ask a different
15 question. Yesterday, you testified in pretty significant
16 detail that when you got out of the car you could not see
17 anything even close to the flagpole, correct?

18 A Visibility was very bad, yes.

19 Q As a matter of fact, you used the term white out
20 conditions; is that right?

21 A Yes, I did.

22 Q White out conditions, you basically can't see your hand
23 in front of your face?

24 A I wouldn't say that extreme but I used whiteout as
25 there's just snow coming at you.

1 Q You were asked -- specifically asked by Mr. Brennan how
2 close did you to get before you could actually see anything
3 of note where Ms. Read had gone; is that right?

4 A Yes.

5 Q You testified yesterday that you could see just merely
6 shadowy figures of Ms. Read and Kerry Roberts, and it
7 wasn't until you got very close over to them that you could
8 see John, in your words?

9 A Correct.

10 Q As a matter of fact, you followed that up by saying
11 that that was the first moment once you got basically on
12 the top of them, that was the first moment that you
13 realized that it was John, that there was a body on the
14 ground, correct?

15 A I said as I got close to them. I don't think on top of
16 them.

17 Q Fair enough. My words not yours. You did say, quote,
18 very close to them, correct?

19 A I'd have to see it, but --

20 Q Well, you just testified to it yesterday. Do you
21 remember saying I had to get very close to them?

22 A I know I said I had got very close to them or close to
23 them, something like that, yes.

24 Q I don't have a transcript of yesterday's testimony.
25 I'm sorry.

1 Last year you testified to something very different
2 from that, though, didn't you?

3 A No.

4 Q Isn't it true that last year you testified that you got
5 out of the passenger side of the vehicle, which is -- you
6 will agree the furthest side from the lawn as Ms. Roberts
7 is driving toward -- from Chapman toward Crestview -- sorry
8 -- Cedarcrest, correct? A Yes.

9 Q You testified that you were on the passenger side, and
10 as you got out of the vehicle, you noted that Karen Read
11 was already at John; is that right?

12 A As I got around and walked around the back of the
13 vehicle, the shadowy figure of Karen had already gotten
14 onto something.

15 Q You further testified that as you got out of the
16 vehicle, you noted that she straddled John, lifted up his
17 shirt, lifted up her shirt, and went to lay on him, and Ms.
18 Roberts went over and said she was starting removing snow
19 from John's face, correct?

20 MR. BRENNAN: Can I have the page and line number?

21 THE COURT: Where are you, Mr. Jackson?

22 MR. JACKSON: May 17, 2024, RT 114, lines 14 to the
23 bottom onto 115, line 4.

24 Q Is that how you testified last year?

25 A I'm sorry. Would you mind just repeating it?

1 Q Sure.

2 A Thank you.

3 Q You testified in substance that you were on the
4 passenger side of the vehicle, and as you got out, quote,
5 as I got out, end quote, she, Ms. Read, was already at
6 John. You indicated that you saw her straddle him, lift up
7 his shirt, lift up her shirt, and lay on top of him while
8 Ms. Roberts went over and removed snow from his face.

9 That's how you testified last year, correct?

10 MR. BRENNAN: I object.

11 THE COURT: Is that how you testified last year?

12 A I'm not sure. I know --

13 THE COURT: Next question.

14 Q Would it refresh your recollection if you were to look
15 at a copy of your testimony from last year?

16 A I don't think looking at it would refresh my memory. I
17 know I might have used different words, but the bottom line
18 is I got out of the car, went behind the car, went over and
19 Karen had done that.

20 Q Ms. McCabe, I'm asking if you think it would -- if you
21 don't have a good recollection of how you testified last
22 year under oath sitting on that witness stand. I'm asking
23 do you think it would you could refresh your recollection
24 to see your transcript?

Testimony of Jen McCabe

4/30/25

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1-189

1 A I don't need to see my transcript. I know what I know,
2 and I know what I remember.

3 Q That's not my question. I'm not asking what you
4 remember now. I'm asking how you testified a year ago,
5 ma'am.

6 A Whether I said it was -- as we're fighting over silly
7 words. Whether I said --

8 Q Oh, no, no, no.

9 A -- I got out of the car, we were there.

10 Q Words matter. They matter a lot.

11 THE COURT: Okay. So remember, Mr. Jackson, no
12 comments. Ms. McCabe, try and answer as best you can.

13 THE WITNESS: Okay.

14 Q Do you remember exactly how it was you testified last
15 year?

16 A I do not, no.

17 MR. JACKSON: May I approach?

18 THE COURT: Yes.

19 A Thank you (reading).

20 MR. JACKSON: May I, Your Honor?

21 THE COURT: Yes.

22 MR. JACKSON: Thank you.

23 Q Ms. McCabe, does that refresh your recollection as to
24 how you testified last year?

1 A I see what it says I said, but it's a little bit
2 different than what you stated.

3 Q Okay. Then let's walk through that. Did you indicate
4 last year that as you got out of the vehicle, that's when
5 you could see what Ms. Read was doing with John O'Keefe,
6 down to the detail of pulling her shirt, and pulling his
7 shirt up to try to go skin to skin.

8 MR. BRENNAN: I object.

9 THE COURT: Why don't I see you at sidebar? Why don't
10 you bring that with you, Mr. Jackson, please.

11 (Sidebar commences:

12 THE COURT: All right. What's the objection?

13 MR. BRENNAN: I'm not trying to interrupt, but it's a
14 paraphrasing of the statement. The statement I do not
15 think is impeachment. I think it's consistent with what
16 she said before. But if Mr. Jackson is going to confront
17 her with the statement, he should read it in its entirety
18 as it was read not taking a piece from line 13 and then
19 forwarding up to the next line.

20 It's causing confusion, and it's not a prior statement.
21 So although I don't think it's impeachment, if he wants to
22 read the entire thing, I have no objection to that. But
23 parsing it is not fair.

24 MR. JACKSON: I'm happy to read the whole thing.

25 THE COURT: Okay.

Testimony of Jen McCabe

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Cw. v. Read

1-191

1 end of sidebar.)

2 THE COURT: Now you can go ahead, Mr. Jackson.

3 MR. JACKSON: Thank you.

4 Q Ms. McCabe, is it true that you had the following
5 colloquy last year on this subject?

6 Answer, "I was on the passenger side so as I got out,
7 she was already at John."

8 Question, "So she gets out and essentially makes a bee
9 line over to where John was?"

10 Answer, "Correct."

11 "Question, "And you're getting out of the passenger
12 side, and by the time you come around the car, she's
13 already there."

14 Answer, "Yes."

15 Question, "And when she gets over there, what, if
16 anything, could you see at that point?"

17 Answer, "She straddles John and lifts up his shirt, and
18 then she lifted up her shirt and went to lay on him, and
19 Ms. Roberts went over and she was removing the snow from
20 his face."

21 Is that how you testified last year?

22 A Yes, that's how I answered question.

23 Q Okay. Clearly, you didn't indicate last year that it
24 was white out conditions, you could see nothing of the

1 kind, and you had to get quote/unquote very close to him
2 before you could see anything, correct?

3 MR. BRENNAN: Objection.

4 THE COURT: Sustained. It's the first word that's
5 problematic, Mr. Jackson.

6 Q Yesterday, you testified that it was white out
7 conditions. You had to leave the car, walk all the way
8 over and get, quote/unquote very close to John before you
9 recognized that it was even a body; is that right?

10 A Yes.

11 Q But last year, you testified you were still at the car
12 when you noted the detail of Karen basically giving
13 lifesaving aid to John, you can see that clearly all the
14 way from the car, correct?

15 MR. BRENNAN: Objection.

16 THE COURT: Is that what you said, Ms. McCabe?

17 A No.

18 Q Is there a reason, Ms. McCabe, that you might wish to
19 improve your testimony this year over last year with regard
20 to the distance that you could see Ms. Read engaged with
21 Mr. O'Keefe?

22 A No.

23 Q Are you trying to suggest, through your testimony to
24 suggest, that you had no idea that there was a body there,

1 and nobody reasonably could have even seen a body there as
2 you drove by?

3 MR. BRENNAN: Objection.

4 THE COURT: Is that what you're trying to say, Ms.
5 Read?

6 MR. JACKSON: Ms. McCabe.

7 THE COURT: McCabe.

8 A Could you repeat the question, please?

9 Q I'm not sure. I'll give it a shot.

10 Are you trying to improve your testimony this year over
11 last year to suggest that reasonably nobody could have seen
12 where John was from the car? Is that what you're trying to
13 do?

14 A I'm not trying to improve my testimony, no.

15 Q You claimed on direct examination, today as a matter of
16 fact, that Ms. Read looked at you at the scene and said the
17 word -- the phrase "I hit him. I hit him. I hit him." She
18 said it three times, very distinctly, according to your
19 testimony, correct?

20 A She did, yes.

21 Q It was so impactful that it had the effect of putting
22 you in some sort of shock and horror; is that right?

23 A I was in shock the whole morning but that statement
24 definitely was a lot.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-194

1 Q And that's an incredibly memorable statement for you to
2 have heard and now recounted to us in this trial, correct?

3 A Correct.

4 Q Something that you wouldn't easily forget or overlook;
5 is that right?

6 A Something I wouldn't?

7 Q Something you would not easily forget or overlook; is
8 that right?

9 A Correct.

10 Q As a matter of fact some might say it's the centerpiece
11 of your testimony?

12 MR. BRENNAN: Objection.

13 THE COURT: Sustained.

14 Q Ms. McCabe, you testified at a grand jury in April of
15 2022; did you not?

16 A I did, yes.

17 Q Before you testified, you took an oath very much like
18 the oath that you took before you testified in this case,
19 correct?

20 A Correct.

21 Q You swore to tell the truth, the whole truth, and
22 nothing but the truth so help you God, correct?

23 A Correct.

24 Q And that included the whole truth at the state grand
25 jury, correct?

1 A Correct.

2 Q That was only weeks, several weeks, but weeks after
3 this incident, April 26 versus January 29, 2022; is that
4 right?

5 A Correct.

6 Q Things were much fresher in your mind then than they
7 are now?

8 A I wouldn't necessarily say that.

9 Q Especially something as momentous as an admission from
10 my client that she hit him; would you agree?

11 A Would I agree that she said that?

12 Q Would you agree that that would be fresh in your mind,
13 something as momentous as that, you wouldn't forget that?

14 A I would never forget.

15 Q You wouldn't overlook that?

16 A I will never forget it.

17 Q You would not overlook that either, would you, Ms.
18 McCabe?

19 A I answered the questions I was asked.

20 Q Could you answer the question I just asked? You're not
21 answering my question. Would you overlook that?

22 A No.

23 Q And the reason you wouldn't overlook it is because it
24 was so impactful on you having heard that, not once, not

1 twice, three times, "I hit him. I hit him. I hit him." Is
2 that right?

3 A Yes.

4 MR. JACKSON: May I approach?

5 THE COURT: Yes.

6 Q Can you take a look at that document and tell me if you
7 recognize that?

8 A Yes, I see it.

9 Q Is that a transcript of your entire testimony at the
10 grand jury in April 2022?

11 A I believe so, yes.

12 Q You reviewed it in the past?

13 A I have read it about a year ago, yes.

14 Q You read it in anticipation of your testimony a year
15 ago, correct?

16 A Yes, I reviewed it.

17 Q Have you reviewed it in preparation for your testimony
18 today?

19 A No, I haven't.

20 Q Ms. McCabe, turn to the page or pages in that
21 transcript where you recount to the grand jurors that my
22 client said, "I hit him. I hit him. I hit him."

23 A This is over 227 pages.

24 Q Take your time.

25 THE COURT: How long did you say it was, Ms. McCabe?

1 THE WITNESS: 227.

2 THE COURT: Okay. I'm not going to let her read 227
3 pages.

4 Q You reviewed it before, haven't you?

5 A I reviewed it a year ago, yes.

6 Q You read the whole thing cover to cover, didn't you?

7 A I skimmed through it.

8 Q One of the most important points in your testimony
9 yesterday and today is recounting to these jurors the
10 phrase, "I hit him. I hit him. I hit him." Is that right?

11 MR. BRENNAN: Objection.

12 THE COURT: To the form of that, I'm sustaining it.

13 Q Was it important to you to tell these jurors that you
14 heard my client say, "I hit him," three times?

15 A I answered the questions, and I'm telling the jurors
16 what I know.

17 Q Was it important to you before testifying today that
18 you recount to these jurors the phrase, "I hit him," coming
19 out of my client's mouth?

20 A Your client said she hit him, yes.

21 Q That's not my question. Listen to my question, Ms.
22 McCabe.

23 Was it important to you before you testified to tell
24 these jurors under oath that my client said, "I hit him,"
25 three times?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-198

1 A As a juror -- I mean as a witness, it's important to
2 tell the truth and to answer the question you were asked.

3 Q And in point of fact, in your entire grand jury
4 testimony, you never said my client said the words, "I hit
5 him," did you?

6 A Again, it's 227 pages.

7 Q Ms. McCabe, you were there. They're your words. I'm
8 not asking you to rehearse something. You were there.

9 Did you tell the grand jurors that my client said, "I
10 hit him?"

11 A I testified a number of times. But I was there the
12 morning of January 29 when your client said, "I hit him. I
13 hit him. I hit him."

14 Q Did you tell that to the grand jurors?

15 A I'm not sure.

16 Q Because you didn't, did you?

17 A Again, I'm not sure.

18 Q Ms. McCabe, you were asked in your grand jury testimony
19 no fewer than a dozen times, twelve times, twelve separate
20 times, you were asked to repeat words that my client said
21 both before, going to, and at the scene at 34 Fairview that
22 morning, correct?

23 MR. BRENNAN: Objection.

24 THE COURT: Do you know the answer to that?

25 A No.

1 Q You were asked multiple times what my client's words
2 were that you heard her say going to and at the scene,
3 correct?

4 A I was, correct.

5 Q And you recounted those words truthfully and honestly
6 at that time, correct?

7 A Correct.

8 Q Because you were under the same oath that you're under
9 today?

10 A Correct.

11 Q And things were much fresher in your mind then than
12 they are now three and a half years later. Would you agree
13 with that?

14 A "I hit him. I hit him. I hit him," is just as fresh
15 today as it was three years ago.

16 Q Turn to page 190 if you wouldn't mind.

17 MR. JACKSON: Reporting to counsel, lines 10 and 11.

18 A Which line is it? I'm sorry.

19 Q Ten and eleven.

20 A (Witness complies.) Okay. I'm sorry.

21 Q You recounted what Ms. Read said to you over the phone
22 to the grand jurors, correct?

23 A Correct.

24 Q And what she said 4:53 a.m. was, "Did I hit him? Could
25 I have hit him?" She didn't say it; she asked it, correct?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-200

1 A She didn't say that at 4:53.

2 Q Did you testify that what Ms. Read sent to you that
3 morning over the phone was, "Could I have hit him? Did I
4 hit him?"

5 A Yes, I did.

6 MR. JACKSON: May I approach?

7 THE COURT: Yes.

8 Q May I have that?

9 A Oh, sure. I just want to verify the page number you're
10 on.

11 MR. JACKSON: May I approach?

12 THE COURT: Yes. Why don't you tell Mr. Brennan the
13 page number.

14 MR. JACKSON: I will with each one.

15 Q If you would turn to page 192, line 4. What did you
16 tell the grand jurors my client said in that answer?

17 MR. BRENNAN: Foundation.

18 THE COURT: What are you talking about?

19 Q I'll ask it a different way. Did you answer a question
20 on page 192, line 4 concerning my client's statement?

21 A Did I answer a question?

22 Q You were answering a question, correct?

23 A Oh, yes, yes. Sorry.

24 Q All right. And the answer that you gave to the grand
25 jurors was, "She said, 'Could I have hit him,'" correct?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-201

1 A Yes, that's part of the answer I gave.

2 Q Turn to page 193.

3 MR. BRENNAN: I'd object.

4 THE COURT: So I don't want to have to see you at
5 sidebar. We need context in order for this to be
6 admissible, Mr. Jackson. I have no idea what that said.

7 MR. JACKSON: Your Honor, I can make an offer proof at
8 sidebar.

9 THE COURT: Okay. Why don't you come to sidebar.

10 MR. JACKSON: Sure.

11 THE COURT: And bring that grand jury transcript. Is
12 that the only copy you have?

13 MR. JACKSON: It's the only one I have. If I may?

14 (Sidebar commences:

15 THE COURT: All right. You have it open? Okay. Well,
16 you can hold yours, Mr. Jackson.

17 MR. BRENNAN: I have no objection to the answer, it's
18 just putting it in context of where and when. So this is
19 who is sitting in the driver's seat. I'm in the driver's
20 seat. She's in the passenger. She's yelling. We got to
21 go to Fairview. So I have no problem with the impeachment,
22 just the context.

23 THE COURT: To this, I have no idea when this statement
24 was made. I don't even know the date this statement was

1 made. You said in response to a question, did you answer
2 so.

3 MR. JACKSON: I'm not reading the entire context
4 because it doesn't matter. My whole point, Your Honor, is
5 that she recounted many statements, twelve different
6 statements, in eight different contexts about -- generally
7 -- about what statements came out of my client's mouth, and
8 none of them were I hit him. So I want to walk through --

9 THE COURT: The only thing she testified at trial at
10 hearing it was at the scene, so this is -- these would be
11 inconsistent statements to that. So that's why you need
12 some context.

13 MR. JACKSON: Okay. I'll provide a brief context for
14 each one.

15 end of sidebar.)

16 MR. JACKSON: May I approach the witness?

17 THE COURT: Yes. Do you have an extra copy for
18 yourself, Mr. Jackson?

19 MR. JACKSON: I have notes. I think my notes will
20 suffice.

21 Q On page 192, line 4, for context, were you talking
22 about a statement that was made in Karen's car on that
23 morning before you got to the scene?

24 A One ninety-two?

25 Q One ninety-two, line four.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-203

1 A Yes, that was comment she made in the car.

2 Q And she said the phrase -- you recounted that she said
3 the phrase, "Could I have hit him," correct?

4 A Yes, that's part of my answer.

5 Q Take a look at page 193, line 1 through 2.

6 A (Witness complies.)

7 Q This was also in the context of the conversation that
8 was in Karen's car, correct?

9 A Yes.

10 Q And the phrase that you attributed to my client was,
11 "Could I have hit him." It was a question, correct?

12 A Yes.

13 Q Page 193, line 23. In the context of being in John's
14 driveway at One Meadows?

15 A Yes.

16 Q And you attributed a statement and she's asking if she
17 could have hit him, correct?

18 A Yes, when she showed me her taillight.

19 Q Page 201, lines 23 and 24. This is driving to
20 Fairview. She asked, "What if I hit him? Could I have hit
21 him," correct?

22 A Can you tell me the lines?

23 Q I'm sorry. Lines 23 and 24, page 201.

24 A Okay. I've read it.

1 Q She stated according to you, what if I hit him, could I
2 had hit him, correct?

3 A Yes, she did.

4 Q Page 202, top of the page line 1 and 2. Again, in
5 context this is driving to Fairview before arrived at
6 Fairview. And she again, asked, quote, according to you
7 and your testimony in front of the grand jury, "Could I
8 have hit him," correct?

9 A Yes, I see that here as part of my answer.

10 Q Then turn to page 208, lines 24 and 25.

11 A I'm sorry. What lines, 24 25?

12 Q Lines 24 and 25. Let me know when you --

13 A I've read them.

14 Q -- reviewed those.

15 For context, this is at the scene outside Fairview?

16 A Yes.

17 Q And you told those grand jurors under oath she asked,
18 "Did I hit him? Could I have hit him?" Correct?

19 A Yes.

20 Q On page 208, lines 24 -- I'm sorry 208 and 209, going
21 onto page 209, lines 1 through 3.

22 You actually recounted to the grand jurors a
23 conversation that you said my client had with a female EMT
24 standing right there exactly as you testified to today,
25 female EMT, do you see that?

1 A I do, yes.

2 Q And what did you say my client's statements were in
3 front of that female EMT?

4 A In this I say that she said, "Could I have hit him? Is
5 he dead?"

6 Q It's actually, "Did I hit him."

7 A Oh, sorry. I missed that part. I apologize. "Did I
8 hit him? Could I have hit him? Is he dead? Is he dead?
9 Is he dead?"

10 Q And that was at the scene int front of the female EMT
11 exactly the scene that you are describing that you
12 attributed the three statements to my client to today,
13 correct?

14 A There was many different times when we were talking to
15 different EMTs, the female EMT, the men, the police
16 officers.

17 MR. JACKSON: May I approach?

18 THE COURT: Yes.

19 MR. JACKSON: Thank you.

20 May I have just a moment, Your Honor.

21 THE COURT: Sure.

22 Q Ms. McCabe, your full statement at page 208 starting at
23 lines 22 through 25 going onto page 209, down to line 4
24 was, "So there are different, you know, police officers
25 getting statements from us, and at one point I'm standing

1 with Ms. Read and she's saying, 'Did I hit him? Could I
2 have hit him,' and there was, I believe, and EMT, a
3 female, standing right next to me listening to her yelling,
4 'Did I hit him? Could I have hit him? Is he dead? Is he
5 dead? Is he dead?' It was pretty much nonstop." That was
6 your testimony before the grand jurors, correct?

7 A Yes, it was.

8 Q And that was April 26, 2022, correct?

9 A Correct.

10 Q Not one time, not one time, Ms. McCabe, did you utter
11 the phrase, "I hit him," as it relates to my client in
12 front of that grand jury on April 26, 2022, did you? Not
13 once.

14 A I'd have to read through the 227 pages to see.

15 Q As you sit here today, do you remember ever saying to
16 those grand jurors she said, "I hit him. I hit him. I hit
17 him," in front of a female EMT?

18 A I've spoken in a few grand juries. Whether -- what I
19 said specifically at different ones, I don't recall at this
20 moment, but I do know that morning your client said, "I hit
21 him. I hit him. I hit him," three times, and there was a
22 female EMT there.

23 Q You spoke with Trooper Proctor just the same day,
24 right, January 29?

25 A Yes.

1 Q Trooper Proctor was taking notes?

2 A Yes.

3 Q About your conversation?

4 A Yes, he was.

5 Q You reviewed those notes, as a matter of fact, at some
6 point?

7 A I didn't review his notes. I think I've seen a report
8 at one point or another.

9 Q On that very day of January 29, 2022, when you were
10 asked to recount what happened at the scene, who was doing
11 what and who said what, you never told Trooper Proctor that
12 my client said, "I hit him," either, did you?

13 A Oh, I told him, yes, I did.

14 Q Did he just leave that out of his report?

15 A I'm not responsible for his report.

16 Q No, you're not. But you have read his report?

17 MR. BRENNAN: Objection.

18 THE COURT: So again, no comments, Mr. Jackson.

19 Q You have read his report, right?

20 A I have seen it before, yes.

21 MR. JACKSON: May I approach, Your Honor?

22 THE COURT: Yes.

23 A Thank you.

24 Q You looked at that report for another particular this
25 morning. Do you still recognize it?

1 A Yes, I do.

2 Q Can you review that report, scan it, and let me know
3 when you're done?

4 A Okay. Is there something specific I should be looking
5 for?

6 Q I don't think you're going to find it, Ms. McCabe.

7 THE COURT: All right. So again, jurors, disregard the
8 comments. So it's question/answer format, only.

9 Q My question is do you see the phrase, "I hit him," as
10 it's attributable to my client in that report?

11 MR. BRENNAN: Objection.

12 THE COURT: Sustained.

13 Q Do you recall telling Trooper Proctor that my client
14 said, "I hit him. I hit him. I hit him?"

15 MR. BRENNAN: Objection.

16 THE COURT: Do you recall that?

17 A Yes, I told him.

18 Q He was taking notes at the time?

19 A He was taking notes, correct.

20 Q Those notes ended up being memorialized in a formal
21 report?

22 A I'm assuming.

23 Q Well, it's the report that you're holding.

24 MR. BRENNAN: I object.

25 THE COURT: Sustained.

1 Q Does that appear to be a report of the January 29,
2 11:35 or so A.M. interview that you did with Michael
3 Proctor?

4 A Yes, it does.

5 Q You said you reviewed that report in the past?

6 A Yes, in the past.

7 Q And you're aware in no place in that report does the
8 phrase "I hit him" show up anywhere, correct?

9 MR. BRENNAN: Objection.

10 THE COURT: Sustained.

11 MR. JACKSON: May I approach?

12 THE COURT: Yes.

13 MR. JACKSON: Oh, I'm sorry. I'm going to approach the
14 witness. Sorry, Mr. Brennan.

15 MR. BRENNAN: Sorry.

16 MR. JACKSON: I'm being vague. I was just grabbing the
17 report back. I'm sorry.

18 May I have just a moment, Your Honor?

19 THE COURT: Sure.

20 Q I want to draw your attention to the very early morning
21 hours of January 29, around 4:53 a.m. when you received
22 that phone call from (C) 's phone. Do you have that time
23 and date in mind?

24 A Yes, I do.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-210

1 Q My client had told you that John had not come home,
2 correct?

3 A Yes.

4 Q And you knew that Ms. Read at that point was awake and
5 looking for John?

6 A I didn't know what -- I just knew that she was awake
7 and screaming.

8 Q Right. Because she was worried about where John was?

9 MR. BRENNAN: Objection.

10 THE COURT: Sustained.

11 Q You've been asked who you communicated with first thing
12 that morning after you received that first call from Ms.
13 Read; is that right?

14 A Yes.

15 Q You were asked by Trooper Prince in her formal
16 interview, Trooper Prince interviewed you on February 1,
17 about three days after the incident, correct?

18 A I met with a lot. I don't really remember specific
19 dates.

20 Q Do you remember a female trooper?

21 A Yes, I do, actually.

22 Q In your house?

23 A Yes.

24 Q Or I should say at your house?

25 A Yes.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-211

1 Q That was around three days after the incident?

2 A It was a Tuesday maybe, yeah.

3 Q I don't know.

4 A I think so, yes, if it's who I'm thinking.

5 Q You were also asked at the same grand jury who you
6 communicated with on the morning of January 29. Do you
7 remember that?

8 A Not specifically.

9 Q Would it refresh your recollection if you were to take
10 a look at that -- a specific page of that grand jury
11 transcript?

12 A Sure.

13 THE COURT: Do you need a couple of minutes, Mr.
14 Jackson?

15 MR. JACKSON: I do, Your Honor.

16 THE COURT: So, jurors, why don't you stand up and
17 stretch, okay, and you can, too, Ms. McCabe.

18 Mr. Jackson, do you want a five minute recess?

19 MR. JACKSON: Sure. That might be nice.

20 THE COURT: All right. We're still going to stop at
21 4:00, so really five minutes, folks.

22 (Jury out.)

23 (Court in recess at 3:28 p.m.)

24

25

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-212

1 (Court in session at 3:34 p.m.)

2 (Defendant is present with counsel.)

3 THE COURT: All right. You're all set, Mr. Jackson.

4 MR. JACKSON: I am, Your Honor. Thank you.

5 THE COURT: All right. We're bringing the jurors over.

6 Are we still on schedule?

7 MR. BRENNAN: We are.

8 (Jury in.)

9 THE COURT: All right. Whenever you're ready, Mr.
10 Jackson.

11 MR. JACKSON: Thank you, Your Honor.

12 Q (By Mr. Jackson) Ms. McCabe, I want to draw your
13 attention back to the morning, later in the morning, after
14 you're back at 34 Fairview, after the police have already
15 cleared the scene, and you're back with your friends and
16 family inside the home at 34 Fairview. We've already
17 talked about the fact that the witnesses were not
18 sequestered in any way, they were not separated in any way
19 by the police; is that right?

20 A We were just sitting together with friends and family,
21 so, yeah, no.

22 Q Right. Everybody was -- all friends and family who were
23 in there were free to talk amongst themselves, which you
24 did do, correct?

25 A Yes.

1 Q Everybody had the opportunity to say their piece and
2 listen to others say their piece as well?

3 A We had conversations. That was really nothing more
4 that.

5 Q At some point, you did -- I think you mentioned this on
6 direct examination, you did reach out to Mike Lank; is that
7 right?

8 A Yes.

9 Q Remind us who Michael Lank is in your world, in
10 addition to being a Canton police officer or police
11 sergeant, I think he was at the time, how is he in your
12 world?

13 A He was just a local guy that I, you know, knew, was
14 friendly with.

15 Q And had gone to high school with?

16 A No.

17 Q Was he -- had he gone to high school?

18 A We weren't in high school at the same time.

19 Q Got it. He was about five years ahead of you; is that
20 right?

21 A Yes.

22 Q Okay. But you've known him or known of him from
23 basically childhood or young adulthood?

24 A Yeah, I just knew him from around town.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-214

1 Q At some point you decided that you were going to call
2 Sergeant Lank back to the scene because there was a piece
3 of information that you were going to provide him again --
4 sorry -- provide him so he needed to come back again?

5 A Yes.

6 Q Ultimately, you called him on his cell phone, right?

7 A I did, yes.

8 Q So you were close enough that you had his cell phone
9 number, he had your cell phone number?

10 A No, I didn't have his cell phone number.

11 Q Where did you get that number?

12 A I asked Julie Albert for that number.

13 Q So Julie has his cell phone number?

14 A Yes, she did.

15 Q And Julie is Chris's wife?

16 A Yes.

17 Q She was at the location?

18 A Yes.

19 Q When I say the location, 34 Fairview that morning?

20 A Yes.

21 Q As was Chris?

22 A He came at some point. I don't know if he was there
23 when I called Officer Lank or not.

24 Q As was Brian Higgins, correct?

25 A Yes, he was.

1 Q He came back over to location as well?

2 A Yes, he did.

3 Q As a matter fact, it was Brian Higgins who suggested
4 you reach out to Officer Lank?

5 A I'm not sure if it was him who suggested it.

6 Q Someone suggested to you that you reach out to Officer
7 Lank; is that right?

8 A As I was sitting there remembering things, I believe --
9 you know, I can't say who did or didn't.

10 Q So as you're sitting there remembering things, you
11 weren't just remembering things, you were remembering
12 things and then telling others things that you remember?

13 A Oh, absolutely.

14 Q So others were absorbing whatever information you were
15 providing to them and vice versa?

16 A No one was really providing me any information because
17 they didn't know what happened. I was --

18 Q So you were -- sorry. Go ahead.

19 A I was just sitting there trying to recount what had
20 transpired since I got that 4:53 phone call.

21 Q And one of the things that you decided you wanted to
22 tell Sergeant Lank was statement by my client?

23 A Yes.

24 Q So you called Sergeant Lank on his cell phone, and
25 you're able to get a hold of him, correct?

1 A Yes.

2 Q Whatever he's doing, I'm guessing he was busy at the
3 time?

4 A I don't know what he was doing.

5 Q Well, he's a first responder on the death of a police
6 officer case that was just hours old, so he had to have
7 been busy?

8 A I was assume. Again, I don't know what he was doing.

9 Q But in fact, after he got your phone call, he dropped
10 everything and headed back to 34 Fairview, correct?

11 MR. BRENNAN: Objection.

12 THE COURT: Sustained.

13 Q Did he come back to 34 Fairview quickly?

14 A He was there fairly quickly, yes.

15 Q And that was at your request?

16 A Yes, I called him and asked him to come back.

17 Q Because you told him that you had information that was
18 important enough that he needed to get over there so you
19 could tell him in person what this new information was?

20 A I called him and told him that I was remembering things
21 and asked if he could come back.

22 Q And he didn't just say, ah, just tell me what it was
23 over the phone. He literally said, okay, I'm going to get
24 in my car, drive in a blizzard, because it's still a
25 blizzard, right?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-217

1 A Yes, there was.

2 Q I'm going to get all my gear on, drive in a blizzard
3 back over to 34 Fairview, get out of my cruiser, come into
4 the house, and get ready for this new information that
5 you're going to give me, correct?

6 A He did not say all that, no.

7 Q No. But that's what he did?

8 A I have no idea what he did. I called him and then he
9 came.

10 Q Well, he didn't walk over. I mean, he came over in his
11 car, right?

12 A I would assume so, yes.

13 Q Right. So he had to get in his car, drove over in a
14 blizzard, get out of the car, walk through the blizzard, go
15 to the front door, and get ready for this new meeting that
16 he's going to have with you, correct?

17 A Yes, that seems like steps one would take.

18 Q And whatever it was that you wanted to tell him, you
19 let him know it was important enough to have a special
20 additional meeting. It wasn't something that you were just
21 going to sit on. You wanted to give him this information
22 immediately, without hesitation, correct?

23 A He said if I remembered anything to give him a call, so
24 I did.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-218

1 Q So when he came back over, he obviously had a notepad
2 and a pen in his hand, correct?

3 A I believe he was taking notes.

4 Q And you told him -- you testified this morning that
5 what you told him was Karen Read said, "I hit him. I hit
6 him. I hit him," right?

7 A Correct.

8 Q But what he wrote in his report was that you said, "She
9 said, 'I hope I didn't hit him,'" correct?

10 A I don't have his report in front of me.

11 MR. JACKSON: May I have just a moment, Your Honor?

12 THE COURT: Yes.

13 A Thank you.

14 Q You're welcome.

15 Q If you could turn to the orange tab.

16 A (Witness complies.)

17 Q Do you see that?

18 A I do, yes.

19 Q And you've had a chance to read?

20 A Just the highlighted part.

21 MR. JACKSON: Okay. May I approach?

22 THE COURT: Yes.

23 MR. JACKSON: Thank you.

24 Q In fact, what you told Officer Lank was something to
25 the effect of, "I hope I didn't hit him," correct?

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-219

1 A Incorrect. I told him that she said, "I hit him."

2 Q He wrote in his report, which you just read, something
3 to the effect of --

4 MR. BRENNAN: Objection.

5 THE COURT: Sustained.

6 Q -- I hope I didn't hit him?

7 THE COURT: Sustained.

8 Q Is this another example of an officer getting a report
9 wrong?

10 MR. BRENNAN: Objection.

11 THE COURT: Sustained.

12 Q Is that report right?

13 MR. BRENNAN: Your Honor, objection.

14 THE COURT: Sustained. Move on, Mr. Jackson.

15 Q "I hope I didn't hit," or something to the effect of,
16 "I hope I didn't hit him," sounds an awful lot like, "Could
17 I have hit him? Did I hit him?" Would you agree with
18 that?

19 A It does sound similar, yeah.

20 Q You testified yesterday that during that first phone
21 call, that first phone conversation with Ms. Read at 4:53
22 a.m., she told you, according to your testimony, that in
23 that phone call, in that very first phone call, Ms. Read
24 said she had gotten into a fight, her taillight was

1 cracked, and she asked, "Could I have hit him?" or "Did I
2 hit him?" Correct?

3 A Incorrect.

4 Q Tell me where I'm wrong.

5 A The first phone call, she had said, "We got into a
6 fight, and he didn't come home and I left him at the
7 Waterfall." In the second phone call, once I told her that
8 I saw her outside of my sister's house on Fairview, that is
9 when she said, could she have hit him and talked about her
10 taillight.

11 Q So two hours after Ms. Read found John O'Keefe and
12 began giving him CPR, you were interviewed by Sergeant Sean
13 Goode, correct?

14 MR. BRENNAN: Objection.

15 THE COURT: Ask the questioning differently, Mr.
16 Jackson.

17 Q Two hours after Ms. Read found Mr. O'Keefe, about two
18 hours later, say 8 o'clock, 8:30 in the morning, after the
19 scene was cleared, you were interviewed by Sean Goode, were
20 you not?

21 MR. BRENNAN: Objection.

22 THE COURT: Sustained.

23 MR. JACKSON: May we approach, Your Honor?

24 THE COURT: Yes.

25 (Sidebar commences:

1 THE COURT: So we should wait for your client.

2 (Ms. Read present.)

3 THE COURT: All right. So go ahead. State your reason
4 on the record.

5 MR. BRENNAN: Attorney Jackson's question includes a
6 predicate that has an assumption to state of mind, and he
7 is interjecting that his client found John O'Keefe. That
8 is not the evidence, and it's not a fair conclusion to draw
9 before asking the witness a separate question.

10 MR. JACKSON: She did find him. That's exactly what
11 the evidence is. Even Kerry Roberts and Jen McCabe, who
12 are very hostile to our side, said that she found him.

13 THE COURT: Okay. I'm going to allow the -- I'm going
14 to sustain the objection. Ask the question differently.
15 Do you have a time frame? You don't need to make every
16 question argumentative, either.

17 MR. JACKSON: That's not our -- I mean.

18 THE COURT: Okay. Your objection's sustained.

19 MR. JACKSON: Judge, how do I use another word other
20 than found?

21 THE COURT: You don't need to. You can just say the
22 time. You can ask her the time. You can ask her the
23 time.

24 end of sidebar.)

25 MR. JACKSON: May I?

1 THE COURT: Yes.

2 MR. JACKSON: Thank you.

3 Q While you were at the scene, after Ms. Read had been
4 giving CPR, Sean Goode interviewed you, correct?

5 A I don't remember a formal interview with Sean Goode.

6 Q Do you remember talking to him?

7 A When he arrived at the scene, I do remember briefly
8 talking to him after all three of us gave John CPR.

9 Q And he gave you -- he asked you, rather, he asked you
10 certain questions about what you had seen, what you had
11 heard, what had happened, correct?

12 A I have to tell you that I remember seeing him. I
13 remember talking to him, but I do not remember specifics of
14 any conversation or any questions that he asked me.

15 Q Do you remember him telling you -- I'm sorry. Do you
16 remember him asking you about any initial calls you had,
17 and you telling him about that 4:53 call and the early
18 morning calls thereafter, the initial calls before you met
19 up with Ms. Read?

20 A I don't recall.

21 Q Did you tell Sergeant Goode -- by the way, he was a
22 sergeant at the time, Sean Goode was a sergeant not an
23 officer?

24 A I'm not sure.

25 Q By the way, you knew Sergeant Goode, did you not?

1 A I didn't know him. I knew of him. Like I knew his
2 name, but that was it.

3 Q How did you know of him before that day?

4 A Because his sister is a year or two younger than me,
5 and I knew she had a brother that was younger that was a
6 Canton cop just through town, but I didn't know him.

7 Q Friendly but not friends?

8 A I would even say I was friendly with him.

9 Q Okay. You actually told Sergeant Goode at the time when
10 he asked about those phone calls that when Ms. Read called
11 you, she was inquiring about John's whereabouts, correct?

12 A Again, I don't recall my conversations with Sean Goode.

13 Q You certainly never mentioned to Sergeant Goode the
14 incessant screaming and hysteria as you've described here
15 in court?

16 MR. BRENNAN: Objection.

17 THE COURT: Sustained.

18 Q Did you ever mention anything about an argument or a
19 fight to Sean Goode?

20 MR. BRENNAN: Objection.

21 THE COURT: Sustained, Mr. Jackson. She said she didn't
22 remember. Next question.

23 MR. JACKSON: I have to go through the series of
24 machinations. I don't know what she remembers about or
25 doesn't remember about.

1 THE COURT: Next question, Mr. Jackson.

2 Q Did you mention anything about a cracked taillight to
3 Sergeant Goode?

4 MR. BRENNAN: Objection.

5 THE COURT: Sustained.

6 Q You have no memory at all about you talked to Sergeant
7 Goode about?

8 A There were many officers there.

9 Q Right.

10 A And like I said, I know I talked to Sergeant Goode, but
11 I do not remember the specifics of my conversation during
12 that chaotic scene. I'm sorry.

13 Q Okay. Let me ask you a different question. There many
14 officers there and many officers were asking you questions,
15 correct?

16 A Correct.

17 Q Did you ask -- I'm sorry -- did you tell any officer
18 while at the scene that during those first few phone calls,
19 first couple of calls with Ms. Read that there was
20 incessant screaming and hysteria?

21 A Again, there were many officers asking me questions.
22 Most of them were regarding who John was, if he had medical
23 issues or concerns, things like that.

24 Q Right.

1 A It was a chaotic scene. I don't remember any specific
2 questions about phone calls. I apologize.

3 Q But you did tell at least one officer about the initial
4 phone call that you received indicating that John may be
5 missing, correct?

6 A I possibly said, I got a phone call and that's why I'm
7 here. We all came out to look for him. I apologize for
8 not remembering specifics.

9 Q Did you tell any officer at the scene anything about an
10 argument or fighting that Ms. Read said occurred on that
11 first couple of phone calls?

12 A Again, the conversations were very brief, and they were
13 with a lot of different officers --

14 Q That's yes or no.

15 THE COURT: Let her answer the question, please.

16 Q Do you recall -- that is a yes or a no question, do you
17 recall telling any officer about a conversation in the
18 initial couple of phone calls that you had with Ms. Read
19 about fighting or being in an argument. Do you recall
20 that?

21 A I cannot answer yes or no.

22 Q Well, you either do or you don't. If you don't --

23 A I said, I had many different conversations. I'm not
24 sure.

25 Q So you don't recall?

1 A I'm not sure on specific conversations about that. I
2 apologize.

3 Q Is there a reason why that you're not telling us that
4 you simply don't recall making that statement?

5 MR. BRENNAN: Objection.

6 THE COURT: Sustained.

7 Q Do you recall telling any officer about a cracked
8 taillight that came up in one of those first two phone
9 calls?

10 A At the scene?

11 Q At the scene.

12 A Again, I think all the phone calls -- all the
13 conversations were about what was happening in the present
14 time.

15 Q And literally, this was a couple of hours after this
16 incident, correct, when everything was freshest in your
17 mind?

18 A These conversations were at the scene when Ms. Read was
19 running around and screaming.

20 Q Were you also interviewed by an Officer Mullaney?

21 A Again, there were many officers there that I spoke to.

22 Q Ms. McCabe, do you understand my question? Did you
23 understand the last question I asked you?

24 A If I spoke to an Officer Mullaney?

25 Q Correct.

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-227

1 A Again, I could have. I'm not sure. I don't remember
2 every officer. It was a chaotic scene. I just found my
3 friend on the ground.

4 Q So the answer is, "I don't remember," correct?

5 A I don't remember --

6 Q Okay. Thank you.

7 A -- speaking to him. I'm sorry.

8 Q Later that morning, you did have a conversation with
9 Officer Lank that you actually do remember, correct?

10 A Yes, correct.

11 Q What you told Officer Lank or Sergeant Lank was that
12 you received a phone call from (C) 's phone and that
13 Karen Read was distraught because John never came home,
14 correct?

15 A I told them she was -- I don't remember the exact
16 words, but I told him something like she was hysterical and
17 screaming because John never came home.

18 Q You never mentioned that she said anything about a
19 fight during that initial phone call, correct?

20 A Again, I'm not sure exactly what was said during that
21 initial phone call.

22 Q You never mentioned that she said something about a
23 cracked taillight in that initial phone call or those two
24 phone calls, correct?

1 A These phone calls -- who are these phone calls -- who
2 am I speaking to?

3 Q The initial phone calls that you had with Ms. Read.

4 A Yes.

5 Q You never mentioned to Officer Lank or Sergeant Lank
6 that Ms. Read mentioned anything about a fight or an
7 argument, correct?

8 A I don't remember.

9 Q You never mentioned anything about Ms. Read having
10 saying anything about a cracked taillight in one of those
11 two initial phone calls, correct?

12 A Again, I don't remember what I -- all the things that I
13 told Officer Lank.

14 Q And you certainly never mentioned that Ms. Read said
15 anything about could I have hit him during any of those
16 initial phone calls, correct?

17 A Again, I don't remember my specific conversation with
18 Officer Lank.

19 Q So you don't remember the conversation that you had
20 with Officer Lank when it was clear light of day. You had
21 a chance to take a beat and a breath, catch your breath
22 because it's now 11:30, 11 o'clock in the morning. You
23 don't remember anything about that conversation, but
24 according to your testimony, you remember in detail what my
25 client said waking you out of a dead sleep, correct?

1 A So I didn't speak to him at 11:30. It was earlier in
2 the morning when he came back to Fairview.

3 Q Let's call it 9 o'clock, whatever.

4 A Okay.

5 Q Whatever. It wasn't the same chaos as my client
6 screaming into the phone that John never came home, waking
7 you out of a dead sleep, correct?

8 A Correct.

9 Q But when you recounted that conversation or those
10 conversations to Sergeant Lank, you didn't say a thing
11 about Ms. Read saying that there had been an argument, did
12 you?

13 A I'm saying I don't remember the specifics of my
14 conversation with Officer Lank. I'm also saying that I was
15 woken up out of a dead sleep. Karen showed up at my house
16 screaming. I went out to help her look for John, and then
17 we found one of my closest friends on the front lawn, and
18 she was saying crazy things and acting crazy and acting --

19 Q Ms. McCabe, that's not my question.

20 A -- erratic. And so every police officer --

21 Q Ms. McCabe --

22 THE COURT: Let her finish.

23 Q That's not my question.

24 THE COURT: Let her finish.

Testimony of Jen McCabe

4/30/25

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1-230

1 A -- I spoke to, every police officer that I spoke to, I
2 tried to answer their questions the best I could. It took
3 me hours and in some cases days to remember all the things
4 that Ms. Read had said. My mind, I was in a state of
5 shock, but the minute I remembered she said, "I hit him. I
6 hit him. I hit him," I called Officer Lank.

7 Q And your memory is getting better even as we sit here
8 today, correct?

9 A There are certain things that I will never forget, Mr.
10 Jackson.

11 Q Including the fact that you never, ever, ever said she
12 said the words, "I hit him," to a grand jury when you were
13 asked about it three months after the incident, correct?

14 A She said, "I hit him. I hit him. I hit him."

15 Q You never told that to the grand jurors, did you?

16 A I don't -- I can't remember specifically that -- every
17 grand jury and everything I say, but I can tell you with
18 100 percent accuracy she screamed, "I hit him. I hit him. I
19 hit him."

20 Q And you never said that to the grand jurors --

21 A I don't recall I did.

22 Q -- who were there to get the truth, correct?

23 A The truth is she said, "I hit him. I hit him. I hit
24 him."

25 Q And in fact, Ms. McCabe --

Testimony of Jen McCabe

4/30/25

Cw. v. Read

1-231

1 MR. BRENNAN: Objection.

2 Q -- you were asked that specific question at the grand
3 jury. What did she say at the scene in front of the female
4 EMT, and you know what your answer was? You do because you
5 just read it.

6 A I wasn't asked what she was said --

7 Q What was the answer to that question?

8 MR. BRENNAN: I'm objecting.

9 THE COURT: The objection is sustained. Ask her one
10 more clear question, Mr. Jackson.

11 Q What was the answer you gave in answer to the question
12 about what was said by Ms. Read to the EMT, the female EMT
13 at the scene, what did you say she said?

14 A I don't know if I was asked specifically what she said
15 to a female EMT.

16 THE COURT: All right. We're going to end this now.

17 MR. JACKSON: Your Honor, may I have one more question?

18 THE COURT: Go ahead.

19 MR. JACKSON: I can't end it like this.

20 Q You say she said --

21 THE COURT: Okay. Jurors, ignore the comments of
22 counsel. Ask one question, Mr. Jackson.

23 Q You said that she said, "Could I have hit him? Did I
24 hit him," in the presence of the female EMT. That's what
25 you testified to under oath at the grand jury; isn't it?

Testimony of Jen McCabe

4/30/25

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1 A Yes --

2 Q Thank you.

3 A -- and she also said that.

4 (End of testimony at 3:59 p.m.)

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C E R T I F I C A T I O N

I, CHRISTINE D. BLANKENSHIP, NOTARY PUBLIC, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT
FROM THE RECORD OF THE COURT PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER.

I, CHRISTINE D. BLANKENSHIP, FURTHER CERTIFY THAT I NEITHER
AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES
TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT
I AM NOT FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF
THIS ACTION.

Christine D. Blankenship, June 1, 2025

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